



California Regulatory Notice Register

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JULY 17, 2009

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The *California Regulatory Notice Register* is an official state publication of the Office of Administrative Law containing notices of proposed regulatory actions by state regulatory agencies to adopt, amend or repeal regulations contained in the California Code of Regulations. The effective period of a notice of proposed regulatory action by a state agency in the *California Regulatory Notice Register* shall not exceed one year [Government Code § 11346.4(b)]. It is suggested, therefore, that issues of the *California Regulatory Notice Register* be retained for a minimum of 18 months.

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**PROPOSED ACTION ON
REGULATIONS**

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TITLE 2. SECRETARY OF STATE

NOTICE OF PROPOSED RULEMAKING

**TITLE 2. ADMINISTRATION
DIVISION 7. SECRETARY OF STATE**

**CHAPTER 15. TRUSTWORTHY ELECTRONIC
DOCUMENT OR RECORD PRESERVATION**

**PROPOSAL TO ADD
2 CALIFORNIA CODE OF REGULATIONS
SECTIONS 23010 THROUGH 23080
(TRUSTWORTHY ELECTRONIC DOCUMENT
OR RECORD PRESERVATION)**

Notice is hereby given that the Secretary of State intends to adopt the proposed regulations described below after considering all comments, objections, and recommendations regarding the proposed action.

PROPOSED REGULATORY ACTION

The Secretary of State proposes the following regulatory action: Add sections 23010 through 23080 of Chapter 15 of Division 7 of Title 2 of the California Code of Regulations, to implement, interpret or make specific provisions of Government Code section 12168.7.

AUTHORITY AND REFERENCE

Authority cited: Section 12168.7, Government Code
Reference cited: Sections 25105, 26205, 26205.1, 26205.5, 26907, 27001, 27322.2, 34090.5, and 60203, Government Code; section 102235, Health and Safety Code; and section 10851, Welfare and Institutions Code.

**INFORMATION DIGEST/POLICY STATEMENT
OVERVIEW**

The Secretary of State proposes to add sections 23010 through 23080 to Chapter 15 of Division 7 of Title 2 of the California Code of Regulations, which

would implement, interpret, or make specific section 12168.7 of the Government Code. This statute requires the Secretary of State to approve and adopt uniform statewide standards established by the American National Standards Institute (ANSI) or the Association for Information and Image Management (AIIM) for the purpose of storing and recording permanent and nonpermanent records in electronic media.

Specifically, the Secretary of State proposes to amend Title 2 of the California Code of Regulations as follows:

- 1) Section 23010 will provide the purpose for the newly established chapter.
- 2) Section 23020 will describe the applicability of electronic document or record standards.
- 3) Section 23030 will define terms that are used in the regulations.
- 4) Section 23040 will adopt "AIIM ARP 1 — 2009 Analysis, Selection, and Implementation of Electronic Document Management Systems," to provide for uniform standards related to official document or record storage.
- 5) Section 23050 will adopt International Organization for Standardization (ISO) 15801 "Electronic imaging — Information Stored Electronically — Recommendations for trustworthiness and reliability," and Section 6.17 Business Practices Documentation within "AIIM ARP 1 — 2009 Analysis, Selection, and Implementation of Electronic Document Management Systems," to provide for uniform standards related to business practice documentation.
- 6) Section 23060 will adopt ISO 12033 "Electronic imaging — Guidance for selection of Document Image Compression Methods," to provide for uniform standards related to electronic file compression.
- 7) Section 23070 will adopt ISO 15801 "Electronic Imaging — Information Stored Electronically — Recommendations for trustworthiness and reliability," to provide for uniform standards related to trusted storage of official electronic documents or records, and Section 5.3.3 Trusted System and Legal Considerations within "AIIM ARP 1 — 2009 Analysis, Selection, and Implementation of Electronic Document Management Systems," to provide for uniform standards related to trusted system.
- 8) Section 23080 will adopt ISO 19005 "Document management — Electronic document file format for long-term preservation — Part 1: Use of PDF 14 (PDF/A-1)," to provide for uniform standards related to electronic file format for preservation of converted official documents or records.

PUBLIC HEARING

The Secretary of State has not scheduled a public hearing on this proposed rulemaking. However, the Secretary of State's Office will hold a hearing if it receives a written request for a public hearing from any interested person, or the interested person's authorized representative, no later than 15 days before the close of the written comment period. Any request for a public hearing should be sent within the time specified to the contact person indicated below.

WRITTEN COMMENT PERIOD

Any interested person, or the interested person's authorized representative, may submit written comments relevant to the proposed regulatory action to the Secretary of State. The written comment period closes at 5:00 p.m. on August 31, 2009. The Secretary of State will consider only comments received at the Secretary of State's Office by that time. Submit comments to:

Theresa Aguilar Finger, Special Projects Manager,
MBA/TM, C.P.A.
Secretary of State
1500 11th Street, 6th Floor
Sacramento, CA 95814
(916) 651-9532

DISCLOSURES REGARDING THE PROPOSED ACTION

The Secretary of State has made the following initial determinations:

1. **Mandate on local agencies and school districts:** None. Government Code section 12168.7(d) already provides that until the time that statewide standards are adopted, state officials would ensure that microfilming, electronic data imaging, and photographic reproduction are done in compliance with minimum standards or guidelines, or both, as recommended by ANSI or AIIM for recording of permanent records or nonpermanent records. The regulations adopt certain standards but the lack of adoption of a particular standard does not preclude the use of other standards so long as they meet or exceed the recommendation of AIIM, ANSI or ISO. Any costs identified would be related to the statute, not the regulations.
2. **Costs or savings to any state agency:** We anticipate many state agencies will already have access to the standards or rely on their vendor to comply with the standards. Cost will be

approximately \$324 if the standards are purchased.

3. **Cost to any local agency or school district, which must be reimbursed in accordance with Government Code sections 17500 through 17630:** Costs of \$324 if the standards are purchased.
4. **Other nondiscretionary cost or savings imposed on local agencies:** Costs should be minimal because the regulations are not retroactive. The Secretary of State anticipates local agencies will begin to list the standards in their proposals for new information technology solutions. Savings could be incurred in the long-term because local agencies will have a freely available best practices document to follow when conducting an analysis, selection, and implementation of document management systems, minimizing project failures. There could also be savings from having documents stored to a file format designed for long-term preservation.
5. **Cost or savings in federal funding to the state:** None.
6. **Significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states:** None.
7. **Costs impacts on representative private person or businesses:** Most of the businesses either have access to the standards or participate in the committees that develop the standards. Therefore, costs on representative private person or businesses should be minimal, if any.
8. **Adoption of this new chapter and sections will not:**
 - (A) create or eliminate jobs within California;
 - (B) create new businesses or eliminate existing businesses within California; or
 - (C) affect the expansion of businesses currently doing business within California.
9. **Significant effect on housing:** None
10. **Effect on small business:** Most of the businesses either have access to the standards or participate in the committees that develop the standards. Therefore, costs on representative private person or businesses should be minimal, if any.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code section 11346.5(a)(13), the Secretary of State's Office must determine that no reasonable alternative has been identified that would be more effective in carrying out the

purposes for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

The Secretary of State invites persons to present statements or arguments with respect to alternatives to the proposed amendments during the written comment period.

CONTACT PERSON

Inquiries concerning the proposed administrative action may be directed to:

Theresa Aguilar Finger, Special Projects Manager,
MBA/TM, C.P.A.
Secretary of State
1500 11th Street, 6th Floor
Sacramento, CA 95814
(916) 651-9532

The backup contact person for these inquiries is:

Kaye Kaufman
Secretary of State
1500 11th Street, 6th Floor
Sacramento, CA 95814
(916) 657-2376

All inquiries regarding this proposed rulemaking, including requests for obtaining the Final Statement of Reasons, should be directed to Theresa Aguilar Finger at the address listed above.

AVAILABILITY OF THE STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The Secretary of State's Office will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at the address above. As of the date this notice is published in the Notice Register, the rulemaking file consists of this Notice of Proposed Rulemaking, the regulations as proposed, and the Initial Statement of Reasons. The Initial Statement of Reasons includes the express terms of the proposed action and the information upon which the proposed action is based. Copies are posted on the Secretary of State's web site at www.sos.ca.gov and may also be obtained from the contact person indicated above.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

After considering all timely and relevant comments received, the Secretary of State's Office may adopt the proposed regulations substantially as described in this

notice. If the Secretary of State's Office makes modifications that are sufficiently related to the originally proposed text, it will make the modified text (with the changes clearly indicated) available to the public for at least 15 days before the Secretary of State's Office adopts the regulations as revised. The Secretary of State will automatically send copies of the modified regulations to everyone on our mailing list for these regulations. If you did not directly receive a copy of the regulations from the Secretary of State's Office, then we do not have you on our mailing list for these regulations. Therefore, please send requests for copies of any modified regulations to the attention of the contact person indicated above.

The Secretary of State's Office will accept written comments on the modified regulations for 15 days after the date on which they are made available generally.

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Upon completion, copies of the Final Statement of Reasons will be automatically sent via e-mail to all interested parties who received the Notice of Proposed Rulemaking and proposed regulations. If you did not directly receive a copy of the Notice of Proposed Rulemaking and proposed regulations from the Secretary of State's Office, then we do not have you on our mailing list for these regulations. Therefore, please send requests for copies of the Final Statement of Reasons to the attention of the contact person indicated above.

AVAILABILITY OF DOCUMENTS ON THE INTERNET

Copies of the Notice of Proposed Rulemaking, the Initial Statement of Reasons, and the text of the proposed regulations in underline and/or strikeout can be accessed through the Secretary of State's web site at www.sos.ca.gov. A copy of the Final Statement of Reasons will be posted on the web site once the statement has been prepared.

TITLE 3. DEPARTMENT OF FOOD AND AGRICULTURE

NOTICE IS HEREBY GIVEN that the Department of Food and Agriculture adopted Section 3435 of the regulations in Title 3 of the California Code of Regulations pertaining to Asian Citrus Psyllid Interior Quarantine as an emergency action that was effective on March 18, 2009. The Department proposes to continue the regulation as amended and to complete the amendment process by submission of a Certificate of Compliance no later than September 13, 2009.

A public hearing will be held on September 2, 2009, from 1:00 to 4:00 p.m. (or until all interested parties have been heard), at the Riverside County Cooperative Extension Office, 81-077 Indio Blvd. Suite H, Indio, California. Following the public hearing, the Department of Food and Agriculture, at its own motion, or at the instance of any interested person, may adopt the proposal substantially as set forth without further notice.

Notice is also given that any person interested may present statements or arguments in writing relevant to the action proposed to the agency officer named below on or before August 31, 2009.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Existing law obligates the Department of Food and Agriculture to protect the agricultural industry in California and prevent the spread of injurious pests (Food and Agricultural Code, Sections 401 and 403). Existing law also provides that the Secretary may establish, maintain, and enforce such regulations as he deems necessary to prevent the spread of pests to protect California's agricultural industry (Food and Agricultural Code, Section 5322).

The amendment Section 3435 established a portion of Riverside County as a additional regulated area for the Asian citrus psyllid. The effect of this amendment was to establish authority for the State to conduct quarantine activities in this portion of the State against this pest. There is no existing, comparable federal regulation or statute.

COST TO LOCAL AGENCIES AND SCHOOL DISTRICTS

The Department of Food and Agriculture has determined that Section 3435 does not impose a mandate on local agencies or school districts, except that an agricultural commissioner of a county under quarantine has a duty to enforce it. No reimbursement is required under Section 17561 of the Government Code because the agricultural commissioners of Imperial and San Diego counties requested that these areas become the area under quarantine; therefore, there are no mandated costs associated with the addition of this area to the regulation.

The Department also has determined that the regulation will involve no costs or savings to any state agency, no nondiscretionary costs or savings to local agencies or school districts, no reimbursable costs or savings to local agencies or school districts under Part 7 (commencing with Section 17500) of Division 4 of the Gov-

ernment Code, and no costs or savings in federal funding to the State.

EFFECT ON HOUSING COSTS

The Department has made an initial determination that the proposed actions will not affect housing costs.

EFFECT ON BUSINESSES

The Department has made an initial determination that the proposed action will not have a significant, statewide adverse economic impact directly affecting California businesses, including the ability of California businesses to compete with businesses in other states.

COST IMPACT ON AFFECTED PRIVATE PERSON OR BUSINESSES

The agency is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

ASSESSMENT

The Department has made an assessment that the proposed amendment of the regulations would not (1) create or eliminate jobs within California, (2) create new business or eliminate existing businesses within California, or (3) affect the expansion of businesses currently doing business within California.

ALTERNATIVES CONSIDERED

The Department of Food and Agriculture must determine that no reasonable alternative considered by the Department or that has otherwise been identified and brought to the attention of the Department would be more effective in carrying out the purpose for which the actions are proposed or would be as effective and less burdensome to affected private persons than the proposed actions.

AUTHORITY

The Department adopted and amended Section 3435 pursuant to the authority vested by Sections 407, 5301, 5302 and 5322 of the Food and Agricultural Code of California.

REFERENCE

The Department adopted and amended Section 3435 to implement, interpret and make specific Sections 5301, 5302 and 5322, Food and Agricultural Code.

EFFECT ON SMALL BUSINESS

The proposed amendment of this regulation may affect small businesses.

CONTACT

The agency officer to whom written comments and inquiries about the initial statement of reasons, proposed actions, location of the rulemaking files, and request for a public hearing may be directed to is: Stephen S. Brown, Department of Food and Agriculture, Plant Health and Pest Prevention Services, 1220 N Street, Room A-316, Sacramento, California 95814, (916) 654-1017, FAX (916) 654-1018, E-mail: sbrown@cdfa.ca.gov. In his absence, you may contact Liz Johnson at (916) 654-1017. Questions regarding the substance of the proposed regulation should be directed to Stephen S. Brown.

INTERNET ACCESS

The Department has posted the information regarding this proposed regulatory action on its Internet Web site (www.cdfa.ca.gov/cdfa.pendingregs).

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The Department of Food and Agriculture has prepared an initial statement of reasons for the proposed actions, has available all the information upon which its proposal is based, and has available the express terms of the proposed action. A copy of the initial statement of reasons and the proposed regulations in underline and strikeout form may be obtained upon request. The location of the information on which the proposal is based may also be obtained upon request. In addition, when completed, the final statement of reasons will be available upon request. Requests should be directed to the contact named herein.

If the regulations amended by the Department differ from, but are sufficiently related to the action proposed, they will be available to the public for at least 15 days prior to the date of adoption. Any person interested may obtain a copy of said regulations prior to the date of adoption by contacting the agency officer (contact) named herein.

TITLE 3. DEPARTMENT OF FOOD AND AGRICULTURE

NOTICE IS HEREBY GIVEN that the Department of Food and Agriculture amended subsection 3434(b)

of the regulations in Title 3 of the California Code of Regulations pertaining to Light Brown Apple Moth Interior Quarantine as an emergency action that was effective on September 10, 2008 (OAL File Number 2008-0905-04 E). The Department readopted this emergency action which was effective on May 4, 2009 (OAL File Number 2009-0501-01 EE). The Department proposes to continue the regulation as amended and to complete the amendment process by submission of a Certificate of Compliance no later August 3, 2009.

NOTICE IS HEREBY GIVEN that the Department of Food and Agriculture amended subsection 3434(b) of the regulations in Title 3 of the California Code of Regulations pertaining to Light Brown Apple Moth Interior Quarantine as an emergency action that was effective on September 23, 2008 (OAL File Number 2008-0919-01 E). The Department readopted this emergency action which was effective on May 4, 2009 (OAL File Number 2009-0501-01 EE). The Department proposes to continue the regulation as amended and to complete the amendment process by submission of a Certificate of Compliance no later than August 3, 2009.

NOTICE IS HEREBY GIVEN that the Department of Food and Agriculture amended subsection 3434(b) of the regulations in Title 3 of the California Code of Regulations pertaining to Light Brown Apple Moth interior Quarantine as an emergency action that was effective on October 14, 2008 (OAL File Number 2008-1007-01 E). The Department readopted this emergency action which was effective on May 4, 2009 (OAL File Number 2009-0501-01 EE). The Department proposes to continue the regulation as amended and to complete the amendment process by submission of a Certificate of Compliance no later than August 3, 2009.

On January 23, 2009, Notice (Notice File Number Z-2009-0113-04 for OAL File Numbers 2008-0905-04 E, 2008-0919-01 E and 2008-1007-01 E) concerning the above actions was published in the California Regulatory Notice Register and the close of the public comment period was March 9, 2009. However, the Department inadvertently distributed text which although sufficiently related, did not match with the emergency actions. Pursuant to California Government Code Section 11346.8(c), the Department is providing the opportunity for public comment on the exact text which matches the emergency actions named above.

Notice is also given that any person interested may present statements or arguments in writing relevant to the action proposed to the agency officer named below on or before August 1, 2009.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Existing law provides that the Secretary is obligated to investigate the existence of any pest that is not generally distributed within this State and determine the probability of its spread, and the feasibility of its control or eradication (Food and Agricultural Code Section 5321).

Existing law also provides that the Secretary may establish, maintain and enforce quarantine, eradication and other such regulations as he deems necessary to protect the agricultural industry from the introduction and spread of pests (Food and Agricultural Code, Sections 401, 403, 407 and 5322). Existing law also provides that eradication regulations may proclaim any portion of the State as an eradication area and set forth the boundaries, the pest, its hosts and the methods to be used to eradicate said pest (Food and Agricultural Code Section 5761). The amendments of 3434(b) established additional portions of Alameda, Contra Costa, Napa, San Mateo and Solano counties as regulated areas. There is no existing, comparable federal regulation or statute regulating the intrastate movement.

COST TO LOCAL AGENCIES AND SCHOOL DISTRICTS

The Department of Food and Agriculture has determined that Section 3434 does not impose a mandate on local agencies or school districts, except that an agricultural commissioner of a county under quarantine has a duty to enforce Section 3434. No reimbursement is required for Section 3434 under Section 17561 of the Government Code because all of the affected county agricultural commissioners requested the change in the regulation.

The Department also has determined that the amended regulation will involve no additional costs or savings to any state agency, no reimbursable costs or savings under Part 7 (commencing with Section 17500) of Division 4 of the Government Code to local agencies or school districts, no nondiscretionary costs or savings to local agencies or school districts, and no costs or savings in federal funding to the State.

EFFECT ON HOUSING COSTS

The Department has made an initial determination that the proposed actions will not affect housing costs.

EFFECT ON BUSINESSES

The Department has made an initial determination that the proposed actions will not have a significant statewide adverse economic impact directly affecting

California businesses, including the ability of California businesses to compete with businesses in other states.

COST IMPACT ON AFFECTED PRIVATE PERSON OR BUSINESSES

The cost impact of the amended regulation on a representative private person or business located within the regulated area may be significant. An average infested ornamental nursery producing plants in one-gallon containers may incur initial costs of \$140 to \$218 per acre in eliminating the light brown apple moth to be in reasonable compliance with the proposed action. Approximately 65,000 one-gallon containers may be placed upon one acre. This translates into an initial increased production cost of \$0.002 to \$0.003 per one gallon container. The actual costs may vary with the type of material used, size and production practices of the affected businesses.

However, nursery stock that is infested with the light brown apple moth does not meet the current requirements of Section 3060.2, Standards of Cleanliness, California Code of Regulations (CCR), and cannot be sold. Therefore, there are no additional mandated costs of compliance due to this regulation.

ASSESSMENT

The Department has made an assessment that the proposed adoption of the regulations would not (1) create or eliminate jobs within California, (2) create new business or eliminate existing businesses within California, or (3) affect the expansion of businesses currently doing business within California.

ALTERNATIVES CONSIDERED

The Department of Food and Agriculture must determine that no reasonable alternative considered by the Department or that has otherwise been identified and brought to the attention of the Department would be more effective in carrying out the purpose for which the actions are proposed or would be as effective and less burdensome to affected private persons than the proposed actions.

AUTHORITY

The Department proposes to amend Section 3434 pursuant to the authority vested by Sections 407, 5301, 5302 and 5322 of the Food and Agricultural Code.

REFERENCE

The Department proposes this action to implement, interpret and make specific Sections 5301, 5302 and 5322 of the Food and Agricultural Code.

EFFECT ON SMALL BUSINESS

The proposed amendment of this regulation may affect small businesses.

CONTACT

The agency officer to whom written comments and inquiries about the initial statement of reasons, proposed actions, location of the rulemaking files, and request for a public hearing may be directed to is: Stephen S. Brown, Department of Food and Agriculture, Plant Health and Pest Prevention Services, 1220 N Street, Room A-316, Sacramento, California 95814, (916) 654-1017, FAX (916) 654-1018, E-mail: sbrown@cdfa.ca.gov. In his absence, you may contact Liz Johnson at (916) 654-1017. Questions regarding the substance of the proposed regulation should be directed to Stephen S. Brown.

INTERNET ACCESS

The Department has posted the information regarding this proposed regulatory action on its Internet Web site (www.cdfa.ca.gov/cdfa.pendingregs).

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The Department of Food and Agriculture has prepared an initial statement of reasons for the proposed actions, has available all the information upon which its proposal is based, and has available the express terms of the proposed action. A copy of the initial statement of reasons and the proposed regulations in underline and strikeout form may be obtained upon request. The location of the information on which the proposal is based may also be obtained upon request. In addition, when completed, the final statement of reasons will be available upon request. Requests should be directed to the contact named herein.

If the regulations adopted by the Department differ from, but are sufficiently related to the action proposed, they will be available to the public for at least 15 days prior to the date of adoption. Any person interested may obtain a copy of said regulations prior to the date of adoption by contacting the agency officer (contact) named herein.

TITLE 16 BUREAU OF AUTOMOTIVE REPAIR

NOTICE OF PROPOSED REGULATORY ACTION AND PUBLIC HEARING CONCERNING

SMOG INSPECTION REQUIREMENTS

SPECIFICALLY

DIESEL-POWERED VEHICLE TESTING AND REPAIR;

SUBLET REPAIRS;

SMOG CHECK INSPECTION PROCEDURES MANUAL;

FUEL FILLPIPE RESTRICTOR DOWEL GAUGE;

AND

VISIBLE SMOKE TEST

NOTICE IS HEREBY GIVEN that the Department of Consumer Affairs/Bureau of Automotive Repair (hereinafter "Bureau" or "BAR") is proposing to take the action described in the Informative Digest. Any person interested may present statements or arguments orally or in writing relevant to the action proposed at hearings to be held at the following locations on the following dates:

NORTHERN CALIFORNIA

August 31, 2009, 10:00 a.m.

Department of Consumer Affairs
Hearing Room
1625 North Market
Sacramento, California 95834

Written comments, including those sent by mail, facsimile, or e-mail to the addresses listed under Contact Person in this Notice, must be **received by the Bureau at its office no later than 5:00 p.m. on September 8, 2009**, or must be received by the Bureau at one of the above referenced hearings. **Comments sent to persons or addresses other than those specified under Contact Person, or received after the date and time specified above, regardless of the manner of transmission, will be included in the record of this proposed regulatory action, but will not be summarized or responded to.** The Bureau, upon its own motion or at the instance of any interested party, may thereafter formally adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as contact person and will be mailed to those persons who submit oral or written testimony related to this proposal or who have requested notification of any changes to the proposal.

AUTHORITY AND REFERENCE:

Pursuant to the authority vested by Sections 44001.5, 44002, 44003, 44011, 44012, 44012.1, 44013, 44030, 44036, and 44037.1 of the Health and Safety Code and Section 9882 of the Business and Professions Code, and to implement, interpret or make specific Sections 39032.5, 44002, 44003, 44005, 44010, 44011, 44011.3, 44012, 44012.1, 44013, 44014, 44014.5, 44014.7, 44015, 44017, 44017.1, 44030, 44032, 44033, 44036, 44037, 44037.1, 44045.5, 44062.1, and 44081 of the Health and Safety Code, and Sections 9884.8 and 9884.9 of the Business and Professions Code; the Bureau is proposing to adopt the following changes to Article 5.5 of Chapter 1, Division 33, Title 16, California Code of Regulations.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

INTRODUCTION:

The Bureau of Automotive Repair, within the Department of Consumer Affairs, is the state agency charged with administration and implementation of the Smog Check Program (Program). The Program is designed to reduce air pollution from mobile sources, such as passenger vehicles and trucks, by requiring that these vehicles meet specific emissions standards.

The health effects of air pollution have been well documented. At greatest risk are children, the elderly, and those with heart and lung diseases. Pollutants of concern include ozone, particulates, and toxic air pollutants. Ozone is formed from the interaction, in the presence of sunlight, of hydrocarbons (HC) and oxides of nitrogen (NO_x), both of which are emitted from gasoline-powered motor vehicles. According to the California Air Resources Board (ARB), the effects from short-term exposure to ozone include hospital admissions for respiratory causes, emergency-room visits for asthma, restricted activity days, acute respiratory symptoms, exacerbation of asthma, and premature mortality.

In addition, air pollution from diesel-powered vehicles is a complex mixture of gases, vapors, and fine particles. In part, diesel exhaust includes particulate matter (PM), NO_x and reactive organic gases (ROG) such as HC. Although diesel-powered vehicles tend to have low BC emissions, they can emit higher levels of NO_x and PM than similar sized gasoline-powered vehicles. Particulate emissions from diesel-fueled engines have been identified as a toxic air contaminant (TAC) by ARB. TACs are air pollutants that may cause or contribute to an increase in death or serious illness or may pose a present or future hazard to human health.

Diesel-Powered Vehicle Testing and Repair

In 2007, AB 1488 was chaptered, requiring the Bureau to incorporate certain diesel-powered vehicles into the Program, with the following provisions:

1. Include 1998 model year and newer diesel-powered vehicles with a GVWR up to and including 8,500 pounds in the biennial Smog Check Program beginning January 1, 2010.
2. Allow for testing of diesel-powered vehicles with a GVWR up to and including 13,999 pounds once vehicles could be identified and test procedures could be implemented by ARB and BAR, and require the Department of Motor Vehicles (DMV) in consultation with ARB to determine the best method for identifying diesel-powered vehicles with a GVWR of 10,001 to 13,999 pounds inclusive.
3. Include a visual inspection of the emissions control devices and a test of the vehicle's exhaust emissions, in accordance with procedures prescribed by BAR that may include, but are not limited to, on-board diagnostic testing.

At a minimum, AB 1488 requires that 1998 model year and newer vehicles with a GVWR up to and including 8,500 pounds be incorporated into the Smog Check Program. In addition, the legislation requires the inclusion of diesel-powered vehicles with a GVWR up to and including 13,999 pounds and less once DMV determines the best method for identifying these vehicles.

DMV, ARB, and BAR determined that it would be more efficient to include diesel-powered vehicles with a GVWR up to and including 13,999 pounds when the program begins. As a result, emission benefits will be realized by the State sooner. ARB estimates that OBD testing of 1998 model year and newer diesel-powered vehicles with a GVWR less than 8,500 pounds, alone, will reduce 0.7 tons per day of NO_x emissions in 2014.

In addition, BAR worked with ARB on the development of diesel Smog Check inspection procedures to meet the implementation date set by AB 1488. In March 2008, BAR and ARB began conducting a study of over 150 privately owned diesel-powered vehicles recruited by an ARB contractor¹. The sample consisted of 1998 model year and newer diesel-powered vehicles with a GVWR up to and including 13,999 pounds. The study included an on-board diagnostics (OBD-II²) test, visual checks for defective or tampered emissions control systems (ECS), and several methods to check for visible

¹ Details of the study and resulting conclusions are discussed in *Implementation Study to Incorporate Diesel Vehicles into Smog Check* as included in the Underlying Data section of this document.

² OBD-II refers to the newest technology in reference to on-board diagnostics. 1996 model year and newer vehicles up to 14,000 pounds GVWR are typically OBD-II equipped.

smoke in order to establish the Smog Check inspection procedures for diesel-powered vehicles.

One component of the study was designed to test whether the BAR-97 EIS analyzers were able to communicate with the OBD-II on 1998 model year and newer diesel-powered vehicles. Results showed that the BAR-97 EIS analyzers are able to communicate with diesel-powered vehicles in the same manner as gasoline-powered vehicles with regard to OBD-II. However, like gasoline-powered vehicles, diesel-powered vehicles equipped with newer technology OBD-II, known as controller area network (CAN), were not able to communicate with the BAR-97 EIS analyzers.

The study also involved visual checks on the ECS of the diesel-powered vehicles to determine if a failure due to defective or tampered ECS could be readily identified by Smog Check technicians. The study found that technicians would be able to identify defective or tampered ECS when performing a visual check using both the underhood label and ECS application guides per CCR § 3340.16.5 (a) (12).

Finally, the study compared several methods to check for visible smoke that would provide a safe, accurate, and repeatable test. Initially, BAR and ARB investigated using the Society of Automotive Engineers (SAE) Snap Idle Test to check for visible smoke on diesel-powered vehicles. During testing, it was found that some light-duty diesel-powered vehicles smoked as a result of exceeding allowable revolutions per minute (RPM) limits, causing false failures. Since the SAE test was originally designed for heavy-duty diesel-powered vehicles, it was determined to be incompatible for testing all light-duty diesel-powered vehicles. As a consequence, BAR and ARB modified the SAE test procedures and developed the "BAR Snap Test"³ Following this, BAR and ARB established the applicable standards for the modified test procedures.

In September 2008, BAR conducted a smaller study of 39 diesel-powered vehicles, 1998 model year and newer, for the purposes of evaluating the BAR Snap Test. Diesel-powered vehicles from various vehicle manufacturers were tested at several dealerships located in both Northern and Southern California. A range of RPM limits were evaluated to determine the range necessary to detect visible smoke while providing a safe, accurate, and repeatable test.

In addition to these studies, ARB and BAR held multiple workshops⁴ in Northern and Southern California. The purpose of the workshops was to provide informa-

tion on the new diesel Smog Check program and obtain input from interested parties.

Based on findings from the studies and workshops, ARB and BAR determined the Smog Check inspection for diesel-powered vehicles would consist of an OBD test, a visual check of ECS components, and a visible smoke test per AB 1488.

The diesel-powered vehicle population subject to the biennial Program for calendar year 2010 is expected to be approximately 540,000 vehicles according to ARB. About half of the diesel-powered vehicles subject to the inspection will obtain their first biennial Smog Check in 2010, with the other half to be tested biennially beginning in 2011. In January 2010, DMV will begin notifying owners of diesel-powered vehicles whether an inspection is required on their registration renewal notices. In addition, diesel-powered vehicles that are more than four model years old will require a Smog Check inspection upon change of ownership and upon initial registration in California, beginning January 1, 2010. The total number of diesel-powered Smog Check inspections for 2010 is expected to be 325,000. This includes biennial, change of ownership, and initial registration inspections.

Smog Check stations (Test-Only and Test-and-Repair) will not be required to purchase any new equipment. BAR is planning to provide online diesel specific inspection training to Smog Check technicians at no cost. The training will include instruction on EIS operation, OBD testing, visual testing, and visible smoke testing.

Sublet Repairs

Existing law, Business and Professions (B&P) Code section 9884.9(b), authorizes automotive repair dealers (ARDs) to sublet repairs. T&R stations that perform Smog Check inspections and repairs must be registered as an ARD and licensed as a Smog Check Test and Repair (T&R) station by BAR.

However, CCR section 3340.15(i) specifies that emissions-related repairs must be performed by T&R stations, except under two specific conditions providing the T&R station has diagnosed the repair and the customer has authorized the repair. The first condition allows for subletting repairs to a vehicle's exhaust system typically performed by muffler shops. The second condition allows for subletting repairs to specific defective vehicle components, such as carburetors and radiators, which have been removed from the vehicle by the T&R station.

Several changes have led to the need for expanding the circumstances in which T&R stations may sublet emission-related repairs. First, the passage of AB 1488 led to the inclusion of diesel-powered vehicles into the Program for the first time. Second, changes in vehicle

³ The "BAR Snap Test" is prescribed in the *Smog Check Inspection Procedures Manual*, dated December 2008, as part of the rulemaking file.

⁴ Details and descriptions of these workshops have been included in the Underlying Data and as part of the rulemaking file.

technology have resulted in specialty shops that currently perform non-emission-related repairs to vehicle transmissions and corrections to the software that controls the vehicle's on-board computer systems.

Currently, only a limited number of Smog Check T&R stations perform any type of repair on diesel-powered vehicles. In addition, transmission repairs are complicated and have become a specialized field of repair that is primarily performed by a limited number of repair facilities. Furthermore, on-board computer systems may require a periodic software correction commonly referred to as "refinishing" or reprogramming the on-board computer. There are instances where a software correction is necessary to complete emissions-related repairs needed to pass a Smog Check inspection. The software and equipment to perform these corrections is often proprietary and typically performed by new car dealers. Consequently, it would be more convenient for consumers to allow T&R stations to sublet the necessary emission-related repairs and/or corrections to specialized repair facilities who possess the expertise and equipment.

The proposed regulatory action allows consumers to provide authorization to T&R stations to sublet the emission-related repairs to their vehicles. Subsequently, T&R stations will contact appropriate repair facilities that possess the expertise and equipment to conduct the necessary repairs. Ultimately, this will provide consumers with the convenience of interfacing with a single T&R station for both inspection and repair of their vehicle.

Smog Check Inspection Procedures Manual

The Bureau has provided technicians with an inspection procedures manual since the inception of the Program in 1984. The Manual has served both the Bureau and Smog Check industry well as the Program's primary reference source for conducting Smog Check inspections. However, after many program improvements, it has become outdated with regard to the various inspection procedures. By incorporating the document by reference, this action clarifies the role of the Manual as a single, authoritative source of procedures for conducting Smog Check inspections.

In addition, the procedures for the liquid fuel leak inspection, LPFET, and visible smoke test are currently detailed in regulation. Regulations do not include additional information such as notes, explanations, and examples that are necessary for the inspection of emissions controls. The proposed action of moving these test procedures from regulation into the proposed Manual will provide technicians with one convenient source to reference when conducting the Smog Check inspection.

The revisions to the LPFET in the proposed Manual clarify the procedures involved in the test. Visual in-

spection failures, found in the portion of the evaporative system between the canister pinch point and fuel tank filler neck, can affect the performance of the LPFET. Therefore, when a technician finds a visual failure in this location, he or she is instructed not to conduct the LPFET. Visual failures found in any other location of the evaporative system will not affect the LPFET and the technician will proceed with the LPFET. Current regulation text does not make a distinction as to the location of a visual failure. This clarification does not change the existing LPFET testing process. All evaporative system visual inspection failures, regardless of location, are entered into the EIS evaporative system "visual inspection prompt."

The revisions to the gasoline visible smoke test⁵ in the proposed Manual will provide a more effective and consistent test procedure to identify visible smoke from gasoline- and diesel-powered vehicles. Upon development of the diesel-powered vehicle test procedures, BAR determined that a similar visible smoke test procedure for gasoline- and diesel-powered vehicles would be the best course of action. The revised gasoline visible smoke test is a more effective and consistent test procedure. During 2008 ARB, and BAR developed Smog Check inspection procedures for diesel-powered vehicles in order to meet the January 1, 2010 implementation date set by AB 1488. The inspection procedures for diesel-powered vehicles will be added to the proposed *Smog Check Inspection Procedures Manual*, dated December 2008.

With the introduction of diesel-powered vehicles to the Program, it is necessary to recognize that there are differences between diesel and gas emission systems and those differences necessitate different inspection processes. Therefore, the gasoline- and diesel-powered regulations and the proposed Manual will list the required inspections for both vehicles. Gasoline-powered Smog Check inspections include emissions tests, a visual check of the vehicle's emissions control systems, a functional test of the vehicle's emissions control systems, a liquid fuel leak check, and a gasoline visible smoke test.

By comparison, diesel-powered Smog Check inspections are limited to a visual check of the vehicle's emissions control systems, a fictional test of the vehicle's emissions control systems (specifically the OBD system), and a visible smoke test. It is necessary to specify the tests involved in both inspections due to this difference. Details of the inspections are provided in the proposed Manual to ensure a uniform, consistent Smog

⁵ The gasoline visible smoke test is prescribed in the *Smog Check Inspection Procedures Manual*, dated December 2008, as part of the rulemaking file.

Check inspection is conducted on the appropriate vehicle.

In taking the proposed action of incorporating by reference the proposed Manual in regulation, moving test procedures from regulation into the proposed Manual, clarifying current test procedures, and adding diesel-powered vehicle test procedures to the proposed Manual, the Bureau has clarified and consolidated the inspection procedures (for both gasoline- and diesel-powered vehicles) into one source.

Fuel Fillpipe Restrictor Dowel Gauge

Current regulation requires the fuel fillpipe restrictor dowel gauge on the list of equipment required by all Smog Check stations. The purpose of the dowel gauge was to check the integrity of the leaded gasoline restrictor to ensure the vehicle cannot utilize leaded fuel⁶. However, leaded fuel is no longer available in the United States, Mexico, or Canada. Consequently, the leaded fuel restrictor test using a dowel gauge is obsolete. Thus, there is no need to continue including the fuel fillpipe restrictor dowel gauge on the regulatory list of equipment required by all Smog Check stations. This proposed action to remove the fuel fillpipe restrictor dowel gauge brings Smog Check test equipment requirements in alignment with current fuel technology.

Gasoline Visible Smoke Test

AB 1870 required BAR to incorporate a visible smoke test into the Program by January 2008. Currently all vehicles subject to a Smog Check inspection are required to have a visible test for smoke emanating from the engine crankcase (e.g., positive crankcase ventilation (PCV) system) and the tailpipe. The proposed regulatory action revises the existing visible smoke test procedures for gasoline-powered vehicles.

The gasoline visible smoke test procedure⁷ was developed by an internal working group at BAR, in consultation with ARB. The group was tasked to design a test, as required by statute, that did not impose any new test equipment requirements on Smog Check stations (Test-Only and Test-and-Repair). BAR also wanted to implement a test that could be easily performed by one technician, applied uniformly statewide, and replicated from station to station. BAR met all of these goals in implementing the visible test for smoke. The existing test requires technicians to check for smoke after the loaded-mode portion of the inspection by watching the tailpipe at the rear of the vehicle for ten seconds and then looking under the hood for smoke from the crankcase for ten seconds (10-second idle test).

⁶ The fuel fillpipe restrictor dowel gauge test is only performed on vehicles requiring initial registration in the state of California.

⁷ The gasoline visible smoke test procedure is presented in greater detail in the regulation package titled "Visible Smoke Test," approved by the Office of Administrative Law on January 11, 2008.

In the process of developing the visible smoke test procedure for diesel-powered vehicles, BAR and ARB realized that a Snap Test could also be performed on gasoline-powered vehicles with smoke emissions. The BAR Snap Test includes three modified snap tests where the technician pushes the vehicle's accelerator pedal smoothly, but quickly, from the idle position all the way to the floor. Then the technician releases the accelerator pedal, thus allowing the engine to return to idle. The first modified snap test is preparatory and the remaining two are used to determine if visible smoke is coming from the tailpipe(s) exhaust plume(s).

In November 2008, BAR recruited gasoline-powered vehicles (some with smoke emissions, and some without) to investigate whether the proposed BAR Snap Test was safe, accurate, and repeatable. Results from this study found the BAR Snap Test will identify some smoking vehicles that would not be identified by the 10-second idle test, and the 10-second idle test will identify some failures that the BAR Snap Test will not identify. The combination of the BAR Snap Test and the 10-second idle test will result in a more stringent test leading to a higher failure rate.

BAR recommends revising the existing visible smoke test procedure to include, in addition to the 10-second idle test, the BAR Snap Test. This will provide consistency between the visible smoke test performed on gasoline and diesel-powered vehicles. Having a 10-second idle test for gasoline-powered vehicles and a different BAR Snap Test for diesel-powered vehicles could result in technicians inadvertently using the wrong test procedure. In order to address this issue, BAR decided to have a more consistent visible smoke test procedure where the 10-second idle test is followed by the BAR Snap Test and would be conducted on both gasoline- and diesel-powered vehicles.

It should also be noted that AB 1870 made changes that affect the eligibility for a repair cost waiver when a vehicle fails the visible smoke test. AB 1870 allowed repair cost waivers to be issued to low-income consumers whose vehicles fail the visible smoke test component of a Smog Check inspection. This income restriction also applies to diesel-powered vehicle owners.

CURRENT REGULATION:

Existing regulation in the California Code of Regulations, Title 16, Division 33, Chapter 1, Article 5.5, is summarized as follows:

Section 3340.4 specifies the vehicles exempted from the Smog Check Program.

Section 3340.15 identifies the general requirements for Smog Check stations for licensure and compliance at all times while licensed.

Section 3340.16 establishes the requirements for Test-Only stations in all areas of the Program.

Section 3340.42 prescribes some of the various inspection and test procedures that are to be performed in the course of a Smog Check inspection. This section also establishes the cutpoints applicable to vehicles subject to the Program.

There is no current regulation itemizing all of the inspection procedures involved with the mandatory tests conducted during a Smog Check inspection nor the incorporation by reference of the *Smog Check Inspection Procedures Manual*.

EFFECT OF REGULATORY ACTION:

These proposed actions will make the following changes to existing regulation:

1. Amend Section 3340.5 of Article 5.5, Chapter 1, Division 33, Title 16, California Code of Regulations, as follows:
 - a. Remove from subsection (a) (2) “or diesel fuel.”, add to subsection (a) (4) “any vehicle powered by diesel fuel until December 31, 2009.”, and add subsection (c) with the following text: “On and after January 1, 2010, 1998 model year and newer diesel-powered vehicles, with a gross vehicle weight rating up to and including 13,999 pounds, are not exempt from the program.”
2. Amend Section 3340.15 of Article 5.5, Chapter 1, Division 33, Title 16, California Code of Regulations, as follows:
 - a. Amend subsection (i) to include subparagraph (3) with the following text: “Repairs of diesel-powered vehicles provided the specific smog check station has obtained authorization from the customer to sublet repairs to the vehicle.”
 - b. Amend subsection (i) to include subparagraph (4) with the following text: “Repairs to a vehicle’s transmission provided the specific smog check station has obtained authorization from the customer to sublet repairs to the vehicle.”
 - c. Amend subsection (i) to include subparagraph (5) with the following text: “Corrections to the vehicle’s on-board computer systems’ software provided that the malfunction has been previously diagnosed by the specific smog check station originally authorized by the customer to perform repairs to the vehicle.”
3. Amend Section 3340.16 of Article 5.5, Chapter 1, Division 33, Title 16, California Code of Regulations, as follows:
 - a. Remove subsection (a) (6) regarding the fuel fillpipe restrictor dowel gauge from the list of equipment required for all Smog Check stations.
 - b. Renumber current paragraphs (7), (8), (9), and (10) to be (6), (7), (8), and (9), respectively, to conform to the removal of paragraph (6).
 - c. Remove from renumbered subparagraph (9) the following text: “On and after November 1, 2007.”.
4. Amend Section 3340.42 of Article 5.5, Chapter 1, Division 33, Title 16, California Code of Regulations, as follows:
 - a. Amend the title of the section from “Mandatory Smog Check Inspection and Test Procedures, and Emissions Standards” to “Smog Check Emissions Test Methods and Standards.”
 - b. Replace the first paragraph that states “Smog check stations and smog check technicians shall conduct tests and inspections in accordance with the bureau’s BAR-97 Emissions Inspection System Specifications referenced in subsection (b) of Section 3340.17 of this article and the following:” with “With the exception of diesel-powered vehicles addressed in subsection (f) of this section, the following emissions test methods and standards apply to all vehicles, except diesel-powered vehicles:”.
 - c. Remove from subsection (a) the following text: “The loaded-mode test procedures, including the preconditioning procedure, shall only be conducted according to the bureau approved procedures specified in this section and include the following: (1) Place the vehicle’s driving wheels on a chassis dynamometer and properly restrain the vehicle prior to commencing the test. (2)
- d. Add subsection (j) with the following text: “With respect to the sublet of repairs, the smog check station originally authorized by the customer to perform the repairs shall be responsible for any repair in the same manner as if the station or his or her employees had done the repair.”

With the vehicle operating, sample the exhaust system in the following sequence: (A) Accelerate the vehicle to the cruise condition as specified by the test procedures. (B) Operate the vehicle long enough to stabilize emission levels. (C) Measure and record emissions (hydrocarbon, carbon monoxide, carbon dioxide, and oxides of nitrogen).”

- d. Remove the numerical sequence (3) so that the text will become the last sentence of subsection (a).
 - e. Remove subsection (a) (4) that states “All loaded-mode testing shall be conducted in a manner that does not induce excess emissions from the vehicle being tested.” and subsection (c) that states “All tests shall be performed with the engine at its normal operating temperature.”
 - f. Remove subsection (d) describing the liquid fuel leak inspection, subsection (e) describing the LPFET, and subsection (f) describing the visible smoke test, from regulation and incorporate the procedural requirements into the proposed Manual.
 - g. Renumber current subsections (g) and (h) to (c) and (d), respectively, to conform with the removal of subsections (c), (d), (e), and (f).
 - h. Remove from current subsection (h) (2) reference to Health and Safety Code section 44017.
 - i. Add subsections (e) and (f) regarding Smog Check inspection tests for gasoline- and diesel-powered vehicles.
 - j. Other minor conforming, grammatical and editorial changes that have no regulatory effect are also included.
5. Add Section 3340.45 Smog Check Inspection Procedures Manual to Article 5.5, Chapter 1, Division 33, Title 16, California Code of Regulations.

FISCAL IMPACT ESTIMATES

FISCAL IMPACT ON PUBLIC AGENCIES INCLUDING COSTS OR SAVINGS TO STATE AGENCIES OR COSTS/SAVINGS IN FEDERAL FUNDING TO THE STATE

None.

NONDISCRETIONARY COSTS/SAVINGS TO LOCAL AGENCIES

None.

LOCAL MANDATE

None.

COSTS TO ANY LOCAL AGENCY OR SCHOOL DISTRICT FOR WHICH GOVERNMENT CODE SECTIONS 17500–17630 REQUIRES REIMBURSEMENT

None.

BUSINESS IMPACT

The Bureau has made an initial determination that the proposed regulatory action would have no significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

The following studies/relevant data were relied upon in making the above determination:

Diesel-Powered Vehicle Testing and Repair

This proposed action will add diesel-powered vehicle testing to regulations. The fact that the Smog Check industry would expect additional inspection and repair revenue potentially generated from the inspection and repair of diesel-powered vehicles that fail supports how this regulation will not impose adverse impact on businesses.

Sublet Repairs

This proposed action will expand the circumstances in which licensed Smog Check Test and Repair (T&R) stations may sublet repairs. The fact that this regulatory action will allow TLR stations to retain customers that need specialized emission-related repairs and will provide consumers with a choice of selecting a conveniently located T&R station that can sublet these repairs supports how this regulation will not impose adverse impact on businesses.

Smog Check Inspection Procedures Manual

The proposed action will incorporate by reference the *Smog Check Inspection Procedures Manual*. The fact that this regulatory action will consolidate the inspection procedures and thus, provide technicians with one convenient source to reference when conducting the Smog Check inspection support how this regulation will not impose adverse impact on businesses.

Fuel Fillpipe Restrictor Dowel Gauge

The proposed action will remove the fuel fillpipe restrictor dowel gauge from the list of equipment required

for all Smog Check stations. The fact that this regulatory action brings the Smog Check equipment requirements in alignment with current fuel technology supports how this regulation will not impose adverse impact on businesses.

Visible Smoke Test

The proposed action will revise the visible smoke test procedure for gasoline-powered vehicles. The fact that the Smog Check industry would expect additional repair revenue potentially generated from the repair of smoking vehicles supports how this regulation will not impose adverse impact on businesses.

IMPACT ON JOBS/NEW BUSINESSES

The Bureau has determined that this regulatory proposal will not have any impact on the creation of jobs or new businesses, the elimination of jobs or existing businesses, or the expansion of businesses in the State of California.

COST IMPACT ON REPRESENTATIVE PRIVATE PERSON OR BUSINESS

The cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action, other than the Business Impact described above, and that are known to the Bureau are:

Diesel-Powered Vehicle Testing and Repair

Smog Check Station Impact

The proposed action of including diesel-powered vehicles in the Smog Check Program will result in an increase of approximately 325,000 inspections annually (biennial, change of ownership, and initial registration in California) beginning in 2010. Using the average inspection cost of \$47.26 for vehicles from the *Executive Summary Report for Calendar Year 2007*, all Smog Check stations would annually see approximately \$15.4 million in inspection revenue. For the purpose of this estimate, it was assumed that the average inspection cost for diesel-powered vehicles would be the same as the average inspection cost for gasoline-powered vehicles. While BAR acknowledges that the average inspection cost for gasoline- and diesel-powered vehicles can be different, the figures used for this Business Impact analysis provide estimates based on data from gasoline-powered vehicles. The cost of the Smog Check inspection may be less for diesel-powered vehicles than gasoline-powered vehicles since the diesel inspection is less time consuming.

In addition, Smog Check T&R stations and repair facilities performing sublet work on diesel-powered ve-

hicles will derive revenue through increased repairs necessary to repair failing vehicles. According to ARB, approximately 42,250 (13%) of the 325,000 diesel-powered vehicles to be tested annually will fail an inspection and will require a repair. Using the average repair cost for vehicles from the *Executive Summary Report for Calendar Year 2007*, this translates to \$8.7 million in repair revenue (based on the 2007 average repair cost of \$206.82 for vehicles currently subject to the Program). It is anticipated that the average repair cost for diesel-powered vehicles could be higher than it is for gasoline-powered vehicles, so this estimate is conservative. Further, any Smog Check station that performs retests may derive revenue through additional inspection fees.

A minor software update of the BAR-97 EIS will be required in order for any Smog Check station to perform inspections on diesel-powered vehicles. However, BAR plans to absorb the cost associated with this update (included as part of the Emissions Inspection Specification Revision regulation⁸). Thus, Smog Check stations (Test-Only and Test-and-Repair) will not incur the additional expense typically associated with such a software update. No other specialized equipment will be required to perform the diesel Smog Check inspection.

The Smog Check industry may need to invest a small amount of time viewing BAR online diesel inspection training at no cost. However, for Test-Only stations this would be offset by additional inspection revenue and for T&R stations this would be offset by additional inspection and repair revenue.

Business Fleet Impact

There are a limited number of businesses exclusively operating diesel-powered vehicles in their fleet. BAR informally surveyed and determined that the majority of these businesses will likely utilize Smog Check stations (Test-Only and Test-and-Repair) to perform the diesel Smog Check inspection. Thus, these vehicles have been included in the total number of 325,000 inspections. The remaining businesses may opt to do self-testing; however, this is not mandated by BAR. This voluntary action would require the purchase of test equipment which would cost between \$35,000-\$40,000.

Consumer Impact

BAR anticipates at program start-up that the failure rate will be high because these vehicles have had no

⁸ The Emissions Inspection Specification Revision regulation's Notice for Proposed Regulatory Action and Public Hearing was published in the Office of Administrative Law's register as of February 6, 2009. This regulation revises the emissions standards (cutpoints) to more accurately reflect the emission performance capability of individual vehicles and includes pass/fail criteria for On-Board Diagnostic (OBDII) system readiness monitors.

prior Smog Check inspection. Various members of the T&R industry have indicated that a significant portion of the diesel-powered failures will be due to illegal tampering of emissions control systems. The proposed action of including diesel-powered vehicles in the Program will require the owners of diesel-powered vehicles to pay for a Smog Check inspection and any needed repairs if the vehicle fails. Approximately 325,000 vehicle owners will be impacted (for the year 2010). Using the average inspection cost for vehicles from the Executive Summary Report for Calendar Year 2007, owners of diesel-powered vehicles may spend as much as an estimated \$15.4 million for inspections and at least \$8.7 million for repairs (see Smog Check Station Impact section above). Furthermore, the high failure rate will result with some consumers paying additional retest fees. The average retest fee is expected to be approximately \$47.26 (based on 2007 average inspection cost). Over time, BAR anticipates the diesel program may discourage tampering which would lower the failure rate and consequently, reduce the number of vehicles needing repairs and retests.

BAR offers the Consumer Assistance Program (CAP) which help consumers to mitigate the cost of bringing a vehicle into compliance with the Program. CAP provides up to \$500 in financial assistance toward emissions-related repairs to qualifying consumers or \$1,000 to retire the vehicle. In 2007, CAP assisted 40,381 consumers (Executive Summary Report for Calendar Year 2007). In addition, pursuant to HSC section 44012.1, low-income owners of diesel-powered vehicles, whose vehicles fail the visible smoke test, may qualify for a one-time repair cost waiver from the State.

BAR projects a negligible increase in the number of consumers that would seek CAP financial assistance once diesel-powered vehicles are included in the Program. First, the overall number of diesel-powered vehicles is small relative to the overall number of vehicles subject to the Program. Second, consumers would be less likely to retire 1998 model year and newer vehicles. Finally, tampered vehicles are not eligible to participate in CAP and do not qualify for a repair cost waiver. Although BAR projects minimal participation in CAP by consumers who own diesel-powered vehicles, the availability of this resource can serve as a powerful incentive for consumer compliance in the Smog Check Program.

Sublet Repairs

Smog Check Station Impact

The proposed action of authorizing Smog Check T&R stations to sublet the emission-related repairs of diesel-powered vehicles, the emission-related repairs of transmissions, and the emission-related corrections

to the software version that controls the vehicle's on-board computer systems will have no adverse impact on businesses. In fact, this change could have a positive impact because it will allow T&R stations to retain customers that need these specialized emission-related repairs.

Consumer Impact

The proposed action of authorizing T&R stations to sublet the emission-related repairs of diesel-powered vehicles, the emission-related repairs of transmissions, and the emission-related corrections to the software version that controls the vehicle's on-board computer system is expected to have minimal impact on consumers. Consumers with failing vehicles will have a choice of selecting a conveniently located T&R station that can sublet these types of emission-related repairs to a specialized repair facility. Upon implementation of this proposed regulatory action T&R stations may charge a convenience fee. However, as more T&R stations choose to sublet and this service becomes more readily used, this fee may lessen.

Smog Check Inspection Procedures Manual

Smog Check Station Impact

The following changes will not adversely impact businesses: incorporating by reference the proposed Manual into regulation; moving the specific test procedures for liquid fuel leak inspection, LPFET, and visible smoke test for gasoline-powered vehicles from regulation into the proposed Manual; clarifying current test procedures; adding the diesel-powered vehicle test procedures into the proposed Manual; and removing the fuel fillpipe restrictor dowel gauge from the list of station (Test-Only and Test-and-Repair) equipment requirements.

The revisions to the LPFET in the proposed Manual clarify the procedures involved in the test, specifically in regards to the fuel evaporative system's tank side. The revisions to the visible smoke test in the proposed Manual, as compared to current regulation, provide a consistent test for gasoline- and diesel-powered vehicles. The revisions will not have an adverse impact on businesses since the test procedure adds negligible time to the inspection procedure and does not require additional equipment.

The addition of the diesel-powered vehicle test procedures to the proposed Manual includes an OBD test, a visual check of emissions control components, and a visible smoke test. This addition will not have an adverse impact on businesses. The Smog Check industry will benefit from having one convenient source for technicians to refer to for Smog Check inspection procedures.

Consumer Impact

No impact on consumers.

Fuel Fillpipe Restrictor Dowel Gauge

Smog Check Station Impact

The removal of the fuel fillpipe restrictor dowel gauge equipment requirement from the regulation (that in effect eliminates the check of the fuel fillpipe restrictor from the Smog Check inspection) will not have an adverse impact on businesses. Based on BAR data from Calendar Year 2008, approximately 770,000 vehicles per year will no longer be subject to this portion of the Smog Check inspection. Consequently, the Smog Check industry may benefit from a slight reduction in inspection time.

Consumer Impact

Consumers would benefit from the removal of the fuel fillpipe restrictor dowel gauge. Upon initial registration in the state of California, vehicles would no longer require this test.

Gasoline Visible Smoke Test

Smog Check Station Impact

All Smog Check stations will benefit from the proposed action of modifying the visible smoke test for gasoline-powered vehicles. BAR anticipates more gasoline-powered vehicles will fail from adding the BAR Snap Test to the existing 10-second idle test, thus, making the revised gasoline visible smoke test more stringent. BAR anticipates at most 0.03% of the vehicles inspected will fail due to the revised gasoline visible smoke test. T&R Stations would receive revenue from the repair of failing vehicles at a total of \$620,000⁹ (based on an average repair cost of \$206.82). Any Smog Check station may benefit from the retest fees as a result of the higher failure rate. In addition, the revised test procedure adds negligible time to the inspection procedure and does not require additional equipment. Smog Check technicians that require additional training will need to invest a small amount of time viewing training material. BAR is planning to provide online gasoline visible smoke test training to Smog Check technicians at no cost.

Consumer Impact

BAR anticipates at most 0.03% of the vehicles inspected will fail due to the revised gasoline visible smoke test. Consumers whose vehicles fail the revised visible smoke test may incur costs from repairing their vehicles totaling \$620,000 (based on an average repair cost of \$206.82).

However, BAR offers the Consumer Assistance Program (CAP) which helps consumers to mitigate the cost of bringing a vehicle into compliance with the Smog Check Program. CAP provides either up to \$500 in fi-

nancial assistance toward emissions-related repairs to qualifying consumers or \$1,000 to retire the vehicle. In addition, pursuant to HSC section 44012.1, low-income owners of vehicles who fail the visible smoke test may qualify for a one-time repair cost waiver from the State.

EFFECT ON HOUSING COSTS

None.

EFFECT ON SMALL BUSINESS

The Bureau has determined that the proposed regulations would affect small businesses.

CONSIDERATION OF ALTERNATIVES

The Bureau must determine that no reasonable alternative, which it considered or that has otherwise been identified and brought to its attention, would either be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposal described in this Notice.

Any interested person may present statements or arguments orally or in writing relevant to the above determinations at the above-mentioned hearing.

INITIAL STATEMENT OF REASONS AND INFORMATION

The Bureau has prepared an initial statement of reasons for the proposed action and has available all the information upon which the proposal is based.

TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations and of the initial statement of reasons, and all of the information upon which the proposal is based, may be obtained at the hearing or prior to the hearing upon request from the Bureau of Automotive Repair at 10240 Systems Parkway, Sacramento, California, 95827.

AVAILABILITY AND LOCATION OF THE RULEMAKING FILE AND THE FINAL STATEMENT OF REASONS

All the information upon which the proposed regulations are based is contained in the rulemaking file that is available for public inspection by contacting the persons named below.

You may obtain a copy of the final statement of reasons once it has been prepared, by making a written re-

⁹ Approximately 9.3 million initial inspections were conducted during Calendar Year 2007. Based on the stated failure rate of 0.03%, approximately 3000 vehicles would require repair.

quest to the contact person named below or by accessing the Web site listed below.

CONTACT PERSON

Inquiries or comments concerning the proposed administrative action may be addressed to:

Virginia Vu
Bureau of Automotive Repair
10240 Systems Parkway
Sacramento, CA 95827
Telephone: (916) 255-2135
Fax No.: (916) 255-1369
E-mail: virginia_vu@dca.ca.gov

The backup contact person is:

Zachary Richardson
Bureau of Automotive Repair
10240 Systems Parkway
Sacramento, CA 95827
Telephone: (916) 255-4300
Fax No.: (916) 255-1369
E-mail: zachary_richardson@dca.ca.gov

WEB SITE ACCESS

Materials regarding this proposal can also be found on the Bureau's Web site at www.smogcheck.ca.gov.

TITLE 22. EMERGENCY MEDICAL SERVICES AUTHORITY

NOTICE OF REGULATORY ACTION

The Emergency Medical Services Authority (EMS Authority) is proposing to amend Section 100159 of Article 3, Section 100166 of Article 6, and Section 100171 of Article 8 of the Emergency Medical Technician-Paramedic (Paramedic) Regulations, Chapter 4, Division 9, Title 22, California Code of Regulations (CCR), as described in the Informative Digest.

WRITTEN COMMENTS AND AGENCY CONTACTS

Interested parties are invited to submit written comments to the proposed regulatory action during a 45-day written comment period that is provided from July 17, 2009 through August 31, 2009. The written comment period closes at 5:00 p.m. on August 31, 2009, and comments received after that date will not be accepted. Written comments can be mailed, faxed, or e-mailed to either of the EMS Authority staff listed below.

The rulemaking file for the proposed regulatory action is available for review from 9 a.m. until 4 p.m., Monday through Thursday, at the EMS Authority located at 1930 — 9th Street, Sacramento, California 95811-7043, except on state holidays. To schedule a review of the rulemaking file, submit written comments, or obtain answers to questions on the substance of the regulations, contact:

Primary Contact

Nancy Steiner, Chief
EMS Personnel Division
EMS Authority
1930 — 9th Street
Sacramento, CA 95811-7043
e-mail: nancy.steiner@emsa.ca.gov
Phone: (916) 322-4336, Ext. 429
FAX: (916) 324-2875

Secondary Contact

Sean Trask, Manager
EMS Personnel Standards Unit
EMS Personnel Division, EMS Authority
1930 — 9th Street
Sacramento, CA 95811-7043
e-mail: sean.trask@emsa.ca.gov
Phone: (916) 322-4336, Ext. 408
FAX: (916) 324-2875

PUBLIC HEARING

The EMS Authority will hold a public hearing to permit interested parties the opportunity to present statements, arguments, and written comments relevant to the regulatory action. The public hearing will be held on August 31, 2009 from 10 a.m. to 12 p.m. at the EMS Authority located at 1930 — 9th Street, Sacramento, California 95811-7043.

AVAILABILITY OF TEXT OF INITIAL STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

Copies of the exact language of the proposed changes to the regulations, indicated by underline for additions and strikeout for deletions and written in plain English, and the Initial Statement of Reasons will be available on the EMS Authority website at www.emsa.ca.gov, at the office of the EMS Authority at the address listed above, and at the public hearing noted above.

AUTHORITY AND REFERENCE

Health and Safety Code (H&SC) Section 1797.107 authorizes the EMS Authority, upon approval of the Commission on Emergency Medical Services, to adopt, amend or repeal regulations, which would implement, interpret, or make specific the provisions of H&SC Division 2.5 for the development and maintenance of emergency medical services (EMS) in California.

H&SC Section 1797.172 requires the EMS Authority to develop minimum standards for the training, scope of practice, licensure, and licensure renewal for Emergency Medical Technician–Paramedic (paramedic). H&SC Section 1797.172 authorizes the EMS Authority to charge fees for the licensure and licensure renewal of paramedics in an amount sufficient to support the EMS Authority’s licensure program at a level that ensures the qualifications of the individuals licensed to provide quality care. This section also establishes the basic fee for licensure and licensure renewal, and allows the EMS Authority to annually evaluate the fee to determine if the fee is sufficient to fund the actual costs of the EMS Authority’s licensure, licensure renewal, and enforcement programs, and adjust the fee by regulation as necessary.

H&SC Section 1797.185 requires the EMS Authority to establish criteria for the statewide recognition of the certification of EMT–Paramedic personnel in the basic scope of practice and establish standards for training, testing, certification, and revocation of certification, as required for statewide recognition of certification.

INFORMATIVE DIGEST/PLAIN ENGLISH POLICY STATEMENT OVERVIEW

The EMS Authority is proposing to amend the Paramedic Regulations contained in the California Code of Regulations, Title 22, Division 9, Chapter 4, Article 3 Section 100159, Article 6 Section 100166, and Article 8 Section 100171. Article 3 of these regulations specifies the program requirements for paramedic training programs, Article 6 specifies the provisions for paramedic licensure renewal, and Article 8 specifies the provisions for record keeping and fees.

The objectives in amending these regulations are as follows:

- Update the regulations to reflect a change at the national level from a U. S. Department of Transportation Paramedic National Standard Curriculum to U. S. Department of Transportation National Emergency Medical Services Education Standards and Paramedic Instructional Guidelines. This amendment is necessary to ensure that paramedic students are trained in accordance with current national standards for paramedic knowledge and skills.
- Include a provision for licensure renewal extension for paramedics who are members of the reserves and deployed for active duty with a branch of the Armed Forces of the United States. This addition to the regulations is necessary to ensure that paramedics called to active duty in the Armed Forces of the United States do not suffer a loss of licensure while serving their country.

- Increase the paramedic basic fee of \$125 for licensure and licensure renewal by \$35 in Fiscal Year 2010/2011 for a total basic fee of \$160 and by an additional \$35 in Fiscal Year 2011/2012 and thereafter for a total basic fee of \$195. This amendment to the regulations is necessary because the current licensure fee established in statute in 1995 is no longer sufficient to fund the activities of the EMS Authority’s paramedic licensure and enforcement program as required by Health and Safety Code Section 1797.172. The increased costs to the paramedic licensure and enforcement program are due to unfunded mandates (Personal Responsibility and Work Opportunity Reconciliation Act, State Licensing Match System, etc.) and an increase in enforcement cases and paramedics on probation.

MANDATE ON LOCAL AGENCIES OR SCHOOL DISTRICTS

The EMS Authority has determined that the proposed amendments to the regulations do not impose a mandate on local agencies or school districts.

ESTIMATE OF COST OR SAVINGS TO ANY STATE OR LOCAL AGENCY OR SCHOOL DISTRICT

The EMS Authority has determined that there will be costs to the California Department of Highway Patrol (CHP) and to some fire departments and public safety agencies in Fiscal Years 2010/2011 and 2011/2012 from the proposed amendments to the regulations due to the proposed increase in the paramedic licensure and licensure renewal fee. These affected departments and agencies employ paramedics and pay the licensure and licensure renewal fees of their paramedics.

The EMS Authority has determined that there are no costs or savings to any other state agency or school district by the proposed amendments to the regulations. The EMS Authority has also determined that there are no other non–discretionary costs imposed upon local agencies by the proposed amendments to the regulations. There is no cost to any local agency or school district that is required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4.

IMPACT ON BUSINESSES

The EMS Authority has made an initial determination and declares that the proposed amendments to the paramedic regulations will not have a significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

The EMS Authority has relied on discussions with representatives of EMS constituent groups in making this determination. These groups include representatives of paramedic training programs, paramedic unions, private and public ambulance services, nurse unions, law enforcement agencies, state agencies that employ paramedics, emergency nurse associations, physician groups, continuing education providers, local EMS agency administrators, and local EMS agency medical directors.

COST IMPACTS TO REPRESENTATIVE PRIVATE PERSONS OR BUSINESS

The EMS Authority has determined that the licensure renewal extension for paramedics deployed for active military duty will be a cost savings for affected paramedics because they will not be subject to a late licensure renewal fee.

The EMS Authority has determined that the cost to representative private persons or businesses would be minimal. The proposed amendment to increase the paramedic licensure and licensure renewal fee will increase the cost of licensure to paramedics. It will increase the cost of paramedic licensure to those employers (some fire departments and public safety agencies) that choose to pay the licensure and licensure renewal fees for their employees who are paramedics.

SMALL BUSINESS IMPACT STATEMENT

The EMS Authority has determined that the proposed amendments to the regulations will not affect small business, since ambulance companies and other small businesses that employ paramedics do not pay the licensure and licensure renewal fees of their paramedic employees.

POTENTIAL ECONOMIC EFFECT

The EMS Authority has made an assessment that the proposed revisions to the regulations will not create or eliminate jobs in California, will not create new businesses or eliminate existing businesses in California, and will not affect the expansion of businesses currently doing business in California.

FEDERAL FUNDING TO THE STATE

The EMS Authority has determined that the proposed revisions to the regulations will not result in any costs or savings in federal funding to the state.

EFFECT ON HOUSING

The EMS Authority has determined that the proposed revisions to the regulations will not have a fiscal impact on housing costs.

CONSIDERATION OF ALTERNATIVES

The EMS Authority must determine that no reasonable alternative considered or that has otherwise been identified and brought to the attention of the EMS Authority would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action. The EMS Authority invites interested persons to present statements or arguments during the public comment period or at the public hearing noted above with respect to alternatives to the proposed regulation revisions.

FINAL ADOPTION OF REGULATIONS

Following the public hearing, the Commission on Emergency Medical Services may approve for adoption the proposed revisions to the Paramedic Regulations as described in this notice. If approved, copies of the regulations as finally adopted will be sent to all persons on the EMS Authority's mailing list. In addition, a copy of the Final Statement of Reasons will be available on the EMS Authority's website, www.emsa.ca.gov, or by calling or writing the EMS Authority's contact as identified in this notice.

However, if as a result of public comment (oral or written), substantial changes to the regulations are deemed appropriate, copies of the changes will be sent to all persons on the EMS Authority's mailing list, all persons who testified at the public hearing or who submitted written comments during the comment period or at the public hearing, and to those who have requested copies of information regarding the regulation revisions. The EMS Authority will then accept written comments, arguments, or evidence for a period of at least 15 days after the date on which the changes were made available.

If adopted, the regulations will appear in the California Code of Regulations, Title 22, Division 9, Chapter 4, Article 3 Section 100159, Article 6 Section 100166, and Article 8 Section 100171.

GENERAL PUBLIC INTEREST

DEPARTMENT OF FISH AND GAME

Department of Fish and Game —
Public Interest Notice

For Publication July 17, 2009

CESA CONSISTENCY DETERMINATION FOR 2009 Drought Water Bank

The Department of Fish and Game (Department) received a notice on June 8, 2009 that the California Department of Water Resources (DWR) proposes to rely on consultations between federal agencies to carry out a project that may adversely affect species protected by the California Endangered Species Act (CESA). The 2009 Drought Water Bank (DWB) program of the State of California, initiated in the fall of 2008 following Governor Schwarzenegger's declaration of a statewide drought, consists of purchasing water from willing sellers upstream of the Sacramento–San Joaquin Delta (including Central Valley Project contractors, State Water Project contractors, and other water supply entities) and conveying it to water users at risk of experiencing water shortages. This project consists of creating the availability of a maximum of 370,935 acre–feet of water to the DWB through crop substitution, groundwater substitution, reservoir re–operation, and crop idling—including fallowing a maximum of 55,571 acres of rice land (Project).

Project activities will result in impacts to habitat suitable for the giant garter snake (*Thamnophis gigas*), which will likely result in increased stress on snakes that must disperse further to find suitable habitat, a likely reduction in prey base, the potential displacement of individual snakes, and increased risk of predation on snakes. All of these factors may result in increased mortality or reduced forgone reproduction and recruitment.

The U.S. Fish and Wildlife Service (Service) issued a “no jeopardy” federal biological opinion (BO)(81420–2008–F–1596–1) and Incidental Take Statement (ITS) to Bureau of Reclamation (Bureau) on April 14, 2009 which considers the Project's impacts on the federally and state threatened giant garter snake and authorizes incidental take. Pursuant to California Fish and Game Code Section 2080.1, DWR is requesting a determination that the BO is consistent with CESA. If the Department determines that the BO is consistent with CESA, DWR will not be required to obtain an incidental take permit under CESA (Fish and Game Code Section 2081(b)) for the proposed project.

DEPARTMENT OF FISH AND GAME

CONSISTENCY DETERMINATION

Fish and Game Code Section 2080.1

CESA Tracking No. 2080–2009–006–03

PROJECT: Sonoma Creek Bank Stabilization Project, Sonoma County
LOCATION: 13875 Arnold Drive, Glen Ellen, Sonoma County, CA 95442
NOTIFIER: Mr. Douglas Wilson

BACKGROUND

The Sonoma Creek Bank Stabilization Project (Project) includes bank stabilization, habitat restoration, and activities to address existing degraded conditions. The Project area is a 200–foot long section of the right bank of Sonoma Creek within Mr. Wilson's property. The Project will restore important habitat elements lost during 2005–2006 flood events, and stabilize the bank against future flood damage and sediment delivery to Sonoma Creek. The Project will also remove the cause of the existing degraded habitat conditions (i.e., damaged pipe and wire fence) and lay back the right bank at slopes varying from 1:1 to 2:1 (H:V). The 1:1 graded slopes will be protected with vegetated boulders; flatter slopes will receive biotechnical treatments (e.g., brush mattresses and heavy coir fabric planted through with willow poles). At the downstream end of the site, heavy coir fabric and brush mattresses will provide stability. Rocked slopes will have river run gravel placed in the interstitial spaces to facilitate plant establishment. Existing vegetation, including a 24” diameter at breast height (dbh) alder at the downstream end of the project, will be protected to the extent possible.

The Project design consists of repairing a planted boulder bank with habitat logs and root crowns. The main bank repair will be performed using large boulders with interstitial spaces filled with river run gravel. These spaces will be planted with willow poles in the lower areas and with other native container plants above. An existing root wad will be left in place and protected during construction. Four more root wads will be placed along the toe of the repair to provide enhanced wildlife habitat values. A log will be placed parallel to the creek, low on the bank, creating open space beneath it, as well as preventing sediment from entering Sonoma Creek. The design has a number of features that mimic natural habitat for California Freshwater Shrimp (*Syncaris pacifica*).

The area above and around the bank stabilization area will be replanted with native, locally occurring trees and shrubs. Invasive non–native plants, such as vinca,

will be removed, and the area will be replanted with native vegetation. Plantings at the top of bank will include species such as oak, bay, buckeye, snowberry, and coffeeberry. Plantings on a newly installed instream flood bench will include hydrophilic species such as alder, ash, and big leaf maple. Approximately 70 container plants will be installed with a drip irrigation system to provide establishment–period watering.

The reach of Sonoma Creek in the Project vicinity supports a population of California freshwater shrimp which is listed as an endangered species under both the federal Endangered Species Act (ESA) (16 U.S.C. § 1531 et seq.) and the California Endangered Species Act (CESA) (Fish & G. Code, § 2050 et seq.). This area is considered to consist of low to moderate quality habitat due to the lack of undercut banks, stream depth, and substantial overhanging vegetation. However, several individual California freshwater shrimp were observed by the Department of Fish and Game (DFG) during a site inspection on April 24, 2008. To accommodate temporary access for construction of the Project, Sonoma Creek will have to be diverted. Diversion/dewatering activities necessary to implement the Project is expected to result in take of California freshwater shrimp as a result of relocation attempts, and individuals being stranded during dewatering activities.

Because the Project will result in fill material being placed below the ordinary high water mark and because the Project is expected to impact a federally listed species, the United States Army Corps of Engineers (USACE) consulted with the United States Fish and Wildlife Service (USFWS) under Section 7 of the ESA (Corps File No. 2008–00136N). On May 29, 2009, USFWS issued a Biological Opinion (BO)(Ref. No. 81420–2008–F–1545–1), that describes the Project, including conservation measures developed to minimize impacts to California freshwater shrimp, and sets forth measures to mitigate any remaining impacts to California freshwater shrimp and its habitat. On June 3, 2009, the Director of DFG received a written request from Mr. Douglas Wilson for a determination pursuant to Fish and Game Code section 2080.1 that the BO, including its incidental take statement (ITS), is consistent with CESA.

DETERMINATION

DFG has determined that the above referenced BO, including its ITS, is consistent with CESA because the mitigation measures therein meet the criteria set forth in Fish and Game Code section 2081, subdivisions (b) and (c), for authorizing the incidental take of CESA-listed species. DFG finds, among other things, that take of

California Freshwater Shrimp will be incidental to an otherwise lawful activity (*i.e.*, erosion remediation, bank stabilization, and habitat restoration), the mitigation measures identified in the BO and required by the ITS will minimize and fully mitigate the impacts of the authorized take of California Freshwater Shrimp, and the Project will not jeopardize the continued existence of the species. The minimization and mitigation measures in the BO include, but are not limited to, the following:

California freshwater shrimp Mortality Minimization:

1. Work in the riparian area will be limited to June 15 through October 31.
2. The “Dewatering and Species Protection Plan” for the Project (May 2008) will be followed.
3. The amount of rip rap placed on the banks will be minimized as much as is practicable.
4. After construction, the banks that are temporarily disturbed will be revegetated with 70 diverse species of native plants. No non–native seeds will be used.
5. Riparian vegetation will be avoided to the maximum extent practicable.
6. Construction routes will be planned to avoid impacts to trees. The existing alder and rootwad at the downstream end of the projects will be retained.
7. Willow sprigs will be planted to stabilize bank structures.
8. Following installation of any water diversion structures, and prior to the placement of fill, a USFWS–approved biologist shall perform surveys for any shrimp trapped in the project area and collect and transfer them to the nearest suitable habitat downstream of the work area. During holding and transportation, shrimp will be contained in stream water collected from the site.
9. Pump intake structures used for dewatering shall be completely screened with wire mesh not larger than five millimeters (mm) to prevent shrimp from entering the pump system. Water shall be released or pumped downstream at an appropriate rate to maintain downstream flows during construction.
10. If California freshwater shrimp are relocated from the action area, the following procedure shall be used:
 - a. Only a USFWS–approved biologist shall participate in the capture, handling, and monitoring of California freshwater shrimp. The USFWS–approved biologist shall report the number of captures, releases, injuries and mortalities.

- b. California freshwater shrimp will be moved while in the net, or placed in buckets containing stream water and then moved directly to the nearest DFG and USFWS-approved suitable habitat in the same branch of the creek. Suitable habitat is defined as creek sections that will provide at least two out of the three following criteria throughout the summer:
 1. Water depths of 1 foot or more with large woody debris protruding into the channel.
 2. Stream banks with presence of hair-like fine roots, or coarse roots >0.5cm in diameter that extend into the wetted channel.
 3. Undercut banks (>6 inches) along the stream containing blackberries, dogwood or an abundance of herbaceous vegetation with roots or vegetation that extends into the water.
11. All materials used to maintain flow and divert water from the action area including cofferdams, pipe, filter fabric, and gravel will be removed following completion of the project.
12. All construction materials placed in the active stream channel will conform to the following guidelines:
 - a. all fill material will be clean;
 - b. no petroleum based products will be used in the active channel;
 - c. soil anchoring and stabilizing fabrics if used will be slit in appropriate locations to allow for plant growth;
13. No motorized equipment will be left within the channel (top of bank to top of bank) overnight unless a container is secured beneath the equipment to catch any fluid leakage. All contained fluids will be disposed of in a permitted manner.
14. All stockpiling of construction materials, equipment, and supplies, including storage of chemicals, refueling and maintenance, will occur outside the channel. No equipment will be washed where wash runoff could enter the stream channel.
15. In the event of rain, soil and other materials stockpiled will be covered with plastic, secured in place, and surrounded with silt fencing or wattles.
16. Equipment and vehicles operated in the project area will be checked daily for leaks. An Accidental Spill Prevention and Cleanup Plan will be prepared. The plan will require that spill control absorbent material to be available on site at all times.
17. All trash will be properly contained, removed from the work site, and disposed of regularly. Following construction, all trash and construction debris will be removed from work areas.
18. A qualified biologist will ensure that project activities do not spread or introduce invasive exotic species. Non-native plant species will be removed from the project site.
19. Hand labor will be used to control exotic and unwanted vegetation. The use of chemical agents and mechanical equipment within the stream channel will be avoided. Only under extreme circumstances, and with regulatory approval, will herbicides be used to control unwanted species. Only herbicides that have been registered for use in an aquatic environment and on target vegetation will be used.

Mitigation:

20. Bank grading, stabilization, and planting will improve both riparian and aquatic habitat by increasing habitat diversity and shade to protect cold water habitat and by decreasing sedimentation to enhance water quality. Specific project features to improve habitat for California freshwater shrimp include installing woody debris (root wads) and overhanging vegetation (willow planted through both rock and coir blankets). The design of these features will allow development of shelter niches, overhangs, and in-channel roots over time. Installation of an instream flood bench will increase flow area in the channel, thereby lowering or maintaining the estimated water surface elevation in the 100-year flow event. DFG has determined the net long-term habitat improvement resulting from Project implementation in and of itself will fully mitigate for potential California freshwater shrimp mortality and harm associated with the Project. Project implementation will restore instream habitat that is currently deteriorated and improve the ability for California freshwater shrimp to utilize the project vicinity.

Reporting:

21. A USFWS approved 5-year monitoring plan will be developed for all restoration activities within six (6) months of issuance of the BO. The plan should include: the species used, the restoration techniques used, the time of year the work will be done, identifiable success criteria, and remedial actions that will be taken if the success criteria are not achieved. An annual report will be submitted to USFWS no later than August 31 each year.

Ensured Funding:

22. Funds sufficient to cover the costs of the construction and monitoring of the proposed Sonoma Creek Bank Stabilization Project (Security) shall be provided prior to initiating any project activities that could result in incidental take of California Freshwater Shrimp. The Security shall be in an amount and form approved by USFWS and DFG and shall be in a form that allows the DFG to access the funds to remedy a failure to implement the required construction and monitoring activities.

Based on this consistency determination, no authorization from DFG under CESA for take of California freshwater shrimp that occurs during implementation of the Project is required, provided Mr. Douglas Wilson implements the Project as described in the BO, and complies with its mitigation measures and ITS. However, if the Project as described in the BO, including the mitigation measures therein, changes or if USFWS amends or replaces the BO, a new consistency determination or incidental take permit from DFG under CESA will be required to implement the Project. (See generally Fish & G. Code, §§ 2080.1, 2081.)

**DEPARTMENT OF TOXIC SUBSTANCES
CONTROL**

California Environmental Protection Agency
Department of Toxic Substances Control

VARIANCE

Applicant Names: Variance No. V09HQSCD006
State of California
Department of Transportation
(Caltrans)
1120 N Street
Sacramento, California 95814
Effective Date: July 1, 2009

Expiration Date: July 1, 2014

Modification History:

Pursuant to California Health and Safety Code, Section 25143, the Department of Toxic Substances Control hereby issues the attached Variance consisting of 9 pages to the Department of Transportation.

/s/

Beverly Rikala
Team Leader, Operating Facilities Team
Department of Toxic Substances Control

Date: 6/30/09

1. INTRODUCTION.

a) Pursuant to Health and Safety Code, section 25143, the California Department of Toxic Substances Control (DTSC) grants this variance to the applicant below for waste considered to be hazardous solely because of its lead concentrations and as further specified herein.

b) DTSC hereby grants this variance only from the requirements specified herein and only in accordance with all terms and conditions specified herein.

2. IDENTIFYING INFORMATION.

APPLICANT/OWNER/OPERATOR

State of California
Department of Transportation, (Caltrans)
All Districts

3. TYPE OF VARIANCE.

Generation, Manifest, Transportation, Storage and Disposal.

4. ISSUANCE AND EXPIRATION DATES.

DATE ISSUED: July 1, 2009
EXPIRATION DATE: July 1, 2014

5. APPLICABLE STATUTES AND REGULATIONS. The hazardous waste that is the subject of this variance is fully regulated under Health and Safety Code, section 25100, et seq. and California Code of Regulations, title 22, division 4.5 except as specifically identified in Section 8 of this variance.

6. DEFINITION. For purposes of this variance, "lead-contaminated soil(s)" shall mean soil that meets the criteria for hazardous waste but contains less than 3397 mg/kg total lead and is hazardous primarily because of aeriaily-deposited lead contamination associated with exhaust emissions from the operation of motor vehicles.

7. FINDINGS/DETERMINATIONS. DTSC has determined that the variance applicant meets the requirements set forth in Health and Safety Code, section 25143 for a variance from specific regulatory requirements as outlined in Section 8 of this variance. The specific determinations and findings made by DTSC are as follows:

a) Caltrans intends to excavate, stockpile, transport, bury and cover large volumes of soil associated with highway construction projects. In the more urbanized highway corridors around the State this soil is contaminated with lead, primarily due to historic emissions from automobile exhausts. In situ sampling and laboratory testing has shown that some of the soil contains concentrations of lead in excess of State regulatory thresholds, and thus any generated waste from disturbance of the soil would be regulated as hazardous waste. Such soil contains a Total Threshold Limit Concentration (TTLC) of 1000 milligrams per kilogram (mg/kg) or more lead and/or it meets or exceeds the Soluble Threshold Limit Concentration (STLC) for lead of 5 milligrams per liter (mg/l). A Human Health Risk Assessment prepared for this variance concludes that soil contaminated with elevated concentrations of lead can be managed in a way that presents no significant risk to human health.

b) The lead-contaminated soil will be placed only in Caltrans' right-of-way. Depending on concentration levels, the wastes will be covered with a minimum thickness of one (1) foot of non-hazardous soil or asphalt/concrete cover and will always be at least five (5) feet above the highest groundwater elevation. Caltrans will assure that proper health and safety procedures will be followed for workers, including any persons engaged in maintenance work in areas where the waste has been buried and covered.

c) DTSC finds and requires that the lead-contaminated soil excavated, stockpiled, transported, buried and covered pursuant to this variance is a non-RCRA hazardous waste, and that the waste management activity is insignificant as a potential hazard to human health and safety and the environment, when managed in accordance with the conditions, limitations and other requirements specified in this variance.

8. PROVISIONS WAIVED.

Provided Caltrans meets the terms and conditions of this variance, DTSC waives the hazardous waste management requirements of Health and Safety Code, Chapter 6.5 and California Code of Regulations, title 22 for the lead-contaminated soil that Caltrans reuses in

projects that would require Caltrans to obtain a permit for a disposal facility and any other generator requirements that concern the transportation, manifesting, storage and land disposal of hazardous waste.

9. SPECIFIC CONDITIONS, LIMITATIONS AND OTHER REQUIREMENTS.

In order for the provisions discussed in section 8 to be waived, lead-contaminated soil must not exceed the contaminant concentrations discussed below and Caltrans management practices must meet all the following conditions:

a) Caltrans implementation of this variance shall comply with all applicable state laws and regulations for water quality control, water quality control plans, waste discharge requirements (including storm water permits), and others issued by the State Water Resources Control Board (SWRCB) and/or a California Regional Water Quality Control Board (RWQCB). Caltrans shall provide written notification to the appropriate RWQCB at least 30 days prior to advertisement for bids of projects that involve invocation of this variance, or as otherwise negotiated with the SWRCB or appropriate RWQCB.

b) The waivers in this variance shall only be applied to lead-contaminated soil that is not a RCRA hazardous waste and is hazardous primarily because of aerially-deposited lead contamination associated with exhaust emissions from the operation of motor vehicles. The variance is not applicable to any other hazardous waste.

c) Soil containing 1.5 mg/l extractable lead or less (based on a modified waste extraction test using deionized water as the extractant) and 1411 mg/kg or less total lead may be used as fill provided that the lead-contaminated soil is placed a minimum of five (5) feet above the maximum historic water table elevation and covered with at least one (1) foot of nonhazardous soil that will be maintained by Caltrans to prevent future erosion.

d) Soil containing 150 mg/L extractable lead or less (based on a modified waste extraction test using deionized water as the extractant) and 3397 mg/kg or less total lead may be used as fill provided that the lead-contaminated soils are placed a minimum of five (5) feet above the maximum historic water table elevation and protected from infiltration by a pavement structure which will be maintained by Caltrans.

e) Lead-contaminated soil with a pH less than 5.5 but greater than 5.0 shall only be used as fill material under the paved portion of the roadway. Lead-contaminated soil with a pH at or less than 5.0 shall be managed as a hazardous waste.

f) For each project that has the potential to generate waste by disturbing lead-contaminated soil (as defined in 6), Caltrans shall conduct sampling and analysis to adequately characterize the soils containing aerially deposited lead in the areas of planned excavation along the project route. Such sampling and analysis shall include the Toxicity Characteristic Leaching Procedure (TCLP) as prescribed by the United States Environmental Protection Agency to determine whether concentrations of contaminants in soil exceed federal criteria for classification as a hazardous waste.

g) Lead-contaminated soil managed pursuant to this variance shall not be moved outside the designated corridor boundaries (see paragraph t) below. All lead-contaminated soil not buried and covered within the same Caltrans corridor where it originated is not eligible for management under this variance and shall be managed as a hazardous waste.

h) Lead-contaminated soil managed pursuant to this variance shall not be placed in areas where it would come in contact with groundwater or surface water (such as streams and rivers).

i) Lead-contaminated soil managed pursuant to this variance shall be buried and covered only in locations that are protected from erosion that may result from storm water run-on and run-off.

j) The lead-contaminated soil shall be buried and covered in a manner that will prevent accidental or deliberate breach of the asphalt, concrete, and/or cover soil.

k) The presence of lead-contaminated soil shall be incorporated into the project's as-built drawings. The as-built drawings shall be annotated with the location, representative analytical data, and volume of lead-contaminated soil. The as-built drawings shall also state the depth of the cover. These as-built drawings shall be retained by Caltrans.

l) Caltrans shall ensure that no other hazardous wastes, other than the lead-contaminated hazardous waste soil, are placed in the burial areas.

m) Lead-contaminated soil shall not be buried within ten (10) feet of culverts or locations subject to frequent worker exposure.

n) Excavated lead-contaminated soil not placed into the designated area (fill area, roadbed area) by the end of the working day shall be stockpiled and

covered with sheets of polyethylene or at least one foot of non-hazardous soil. The lead-contaminated soil, while stockpiled or under transport, shall be protected from contacting surface water and from being dislodged or transported by wind or storm water. The stockpile covers shall be inspected at least once a week and within 24 hours after rainstorms. If the lead-contaminated soil is stockpiled for more than 4 days from the time of excavation, Caltrans shall restrict public access to the stockpile by using barriers that meet the safety requirements of the construction zone. The lead-contaminated soil shall be stockpiled for no more than 90 days from the time the soil is first excavated. If the contaminated soil is stockpiled beyond the 90 day limit Caltrans shall:

1. notify DTSC in writing of the 90 day exceedance and expected date of removal;
2. perform weekly inspections of the stockpiled material to ensure that there is adequate protection from run-on, run-off, public access, and wind dispersion; and
3. notify DTSC on weekly basis of the stockpile status until the stockpile is removed.

The lead-contaminated soil shall be stockpiled for no more than 180 days from the time the soil is first excavated.

o) Caltrans shall ensure that all stockpiling of lead-contaminated soil remains within the project area of the specified corridor. Stockpiling of lead-contaminated soil within the specified corridor, but outside the project area, is prohibited.

p) Caltrans shall conduct confirmatory sampling of any stockpile area in areas not known or expected to contain lead-contaminated soil after removal of the lead-contaminated soil to ensure that contamination has not been left behind or has not migrated from the stockpiled material to the surrounding soils.

q) Caltrans shall stockpile lead-contaminated soil only on high ground (i.e. no sump areas or low points) so that stockpiled soil will not come in contact with surface water run-on or run-off.

r) Caltrans shall not stockpile lead-contaminated soil in environmentally and ecologically sensitive areas.

s) Caltrans shall ensure that storm/rain run-off that has come into contact with stockpiled lead-contaminated soil will not flow to storm drains, inlets, or waters of the State.

t) Caltrans may dispose of the lead-contaminated soil only within the operating right-of-way of an existing highway, as defined in Streets and Highways Code, section 23. Caltrans may move lead-contaminated soil from one Caltrans project to another Caltrans project only if the lead-contaminated soil remains within the same designated corridor.

Caltrans shall record any movement of lead-contaminated soil by using a bill of lading. The bill of lading must contain: 1) the US DOT description including shipping name, hazard class and ID number; 2) handling codes; 3) quantity of material; 4) volume of material; 5) date of shipment; 6) origin and destination of shipment; and 7) any specific handling instructions. The bill of lading shall be referenced in and kept on file with the project's as-built drawings. The lead-contaminated soil must be kept covered during transportation.

u) For each specific corridor where this variance is to be implemented, all of the following information shall be submitted in writing to DTSC at least five (5) days before construction of any project begins:

1. plan drawing designating the boundaries of the corridor where lead-contaminated soils will be excavated, stockpiled, buried and covered;
2. a list of the Caltrans projects that the corridor encompasses;
3. a list of Caltrans contractors that will be conducting any phase of work on any project affected by this variance;
4. duration of corridor construction;
5. location where sampling and analytical data used to make lead concentration level determinations are kept (e.g., a particular Caltrans project file);
6. name and phone number (including area code) of project resident engineer and project manager;
7. location where Caltrans and contractor health and safety plan and records are kept;
8. location of project special provisions (including page or section number) for soil excavation, transportation, stockpile, burial and placement of cover material;

9. location of project drawings (including drawing page number) for soil excavation, burial and placement of cover in plan and cross section (for example, "The project plans are located at the resident engineer's office located at 5th and Main Streets, City of Fresno, See pages xxxxx of contract xxxx");

10. updated information if a Caltrans project within the corridor is added, changed or deleted; and

11. type of environmental document prepared for each project, date of adoption, document title, Clearing House number and where the document is available for review. A copy of the Caltrans Categorical Exemption, Categorical Exclusion Form, or if filed, the Notice of Exemption for any project shall be submitted to the DTSC Headquarters Project Manager.

v) Changes in location of lead-contaminated soil placement, quantities or protection measures (field changes) shall be noted in the resident engineer's project log within five (5) days of the field change.

w) Caltrans shall ensure that field changes are in compliance with the requirements of this variance.

x) Operational procedures described in the California Environmental Quality Act (CEQA) Special Initial Study shall be followed by Caltrans for activities conducted under this variance.

y) Caltrans shall implement appropriate health and safety procedures to protect its employees and the public, and to prevent or minimize exposure to potentially hazardous wastes. A project-specific health and safety plan must be prepared and implemented. The monitoring and exposure standards shall be based on construction standards for exposure to lead in California Code of Regulations, title 8, section 1532.1.

z) Caltrans shall provide a district Coordinator for this variance. This Coordinator will be the primary point of contact for information flowing to, or received from, DTSC regarding any matter or submission under this variance. Caltrans shall promptly notify DTSC of the name of Coordinator and any change in the Coordinator.

aa) Caltrans shall conduct regular inspections, consistent with Caltrans' Maintenance Division's current Pavement Inspection and Slope Inspection programs, of the locations where lead-contaminated soil has been buried and/or

covered pursuant to this variance. If site inspection reveals deterioration of cover so that conditions in the variance are not met, Caltrans shall repair or replace the cover.

bb) Caltrans shall develop and implement a record keeping mechanism to record and retain permanent records of all locations where lead-contaminated soil has been buried per this variance. The records shall be made available to DTSC.

cc) If areas subject to the terms of this variance are sold, relinquished or abandoned (including roadways), all future property owners shall be notified in writing in advance by Caltrans of the requirements of this variance, and Caltrans shall provide the owner with a copy of the variance. A copy of such a notice shall be sent to DTSC and contain the corridor location and project. Caltrans shall also disclose to DTSC and the new owner the location of areas where lead-contaminated soil has been buried. Future property owners shall be subject to the same requirements as Caltrans.

dd) For the purposes of informing the public about instances where the variance is implemented, Caltrans shall:

1. maintain current fact sheets at all Caltrans resident engineer offices and the Caltrans District office. Caltrans shall make the fact sheets available to anyone expressing an interest in variance-related work.
2. maintain a binder(s) containing copies of all reports submitted to DTSC at the District office. Caltrans shall ensure that the binders are readily accessible to the public.
3. carry out the following actions when it identifies additional projects:
 - (A) notify the public via a display advertisement in a newspaper of general circulation in that area.
 - (B) update and distribute the fact sheet to the mailing list and repository locations.

ee) Lead-contaminated soil may be buried only in areas where access is limited or where lead-contaminated soil is covered and contained by a pavement structure.

ff) Dust containing lead-contaminated soil must be controlled. Water or dust palliative may be applied to control dust. If visible dust migration occurs, all excavation, stockpiling and truck loading and burying must be stopped. The granting of this variance confers no relief on Caltrans from compliance with the laws,

regulations and requirements enforced by any local air district or the California Air Resources Board.

gg) Sampling and analysis is required to show the lead-contaminated soil meets the variance criteria. All sampling and analysis must be conducted in accordance with the appropriate methods specified in U.S. EPA SW-846.

hh) DTSC retains the right to require Caltrans or any future owner to remove, and properly dispose of, lead-contaminated soil in the event DTSC determines it is necessary for protection of public health, safety or the environment.

ii) DTSC finds that some projects involving lead-contaminated soil are joint projects between Caltrans and other government entities. In these joint projects, Caltrans may not be the lead agency implementing the project although Caltrans is still involved if the project occurs on its right-of-way.

Caltrans may invoke this variance for joint projects where Caltrans and local government entity are involved provided that 1) the project is within the Caltrans Right-of-Way; 2) Caltrans reviews/oversees all phases of the project including design, contracting, environmental assessment, construction, operation, and maintenance; and 3) Caltrans oversees the project to verify all variance conditions are complied with. Caltrans will be fully responsible for the variance notification and implementation in these joint projects.

jj) All correspondence shall be directed to the following office:

Hazardous Waste Permitting
Department of Toxic Substances Control
8800 Cal Center Drive
Sacramento, CA 95826

Attn: Caltrans Lead Variance Notification Unit

10. DISCLAIMER.

a) The issuance of this variance does not relieve Caltrans of the responsibility for compliance with Health and Safety Code, chapter 6.5, or the regulations adopted thereunder, and any other laws and regulations other than those specifically identified in Section 8 of this variance. Caltrans is subject to all terms and conditions herein. The granting of this variance confers no relief from compliance with any federal, State or local requirements other than those specifically provided herein.

b) The issuance of this variance does not release Caltrans from any liability associated with the handling of hazardous waste, except as specifically provided herein and subject to all terms and conditions of this variance.

11. **VARIANCE MODIFICATION OR REVOCATION.** This variance is subject to review at the discretion of DTSC and may be modified or revoked by DTSC upon change of ownership and at any other time pursuant to Health and Safety Code, section 25143.
12. **CEQA DETERMINATION.** DTSC adopted a Negative Declaration on June 30, 2009.

Approved:

Date 6/30/09 /s/
Beverly Rikala
Operating Facilities Team
Department of Toxic Substances
Control

TITLE 16. MEDICAL BOARD OF CALIFORNIA

Notice of Proposed Regulatory Action
Change of Location for Public Hearing

The California Regulatory Notice Register dated June 5, 2009 indicated that the Medical Board of California (Board) was proposing a regulation that would amend Section 1314.1 to update and add specificity to the existing standards and methodology that the Board uses to **review international medical schools** in order to determine their compliance with Business and Professions (B&P) Code Sections 2089 and 2089.5. The Board will conduct a public hearing on this proposed regulation on July 24, 2009, at a different location than stated in the original notice.

The new hearing location is:

Medical Board of California
2005 Evergreen St., Hearing Room
Sacramento, CA 95815

As originally noticed, the hearing will begin at 9:00 a.m.

For additional information, please contact:

Name: Deborah Pellegrini, Chief of
Licensing
Address: Medical Board of California
2005 Evergreen St., Suite 1200
Sacramento, CA 95815
Telephone: (916) 263-2365
Fax: (916) 263-2487
E-Mail: dpellegrini@mbc.ca.gov

TITLE 16. MEDICAL BOARD OF CALIFORNIA

Notice of Proposed Regulatory Action
Change of Location for Public Hearing

The California Regulatory Notice Register dated June 5, 2009 indicated that the Medical Board of California (Board) was proposing a regulation that would adopt Section 1355.4 to **provide notice to consumers** that medical doctors are licensed by the Board and how to contact the Board should patients need assistance.

The Board will conduct a public hearing on this proposed regulation on July 24, 2009, at a different location than stated in the original notice.

The new hearing location is:

Medical Board of California
2005 Evergreen St., Hearing Room
Sacramento, CA 95815

As originally noticed, the hearing will begin at 9:10 a.m.

For additional information, please contact:

Name: Candis Cohen
Address: Medical Board of California
2005 Evergreen St., Ste. 1200
Sacramento, CA 95815
Telephone: (916) 263-2394
Fax: (916) 263-2387
E-Mail: ccohen@mbc.ca.gov

DECISION NOT TO PROCEED

DEPARTMENT OF CONSERVATION

NOTICE OF DECISION NOT TO PROCEED

Pursuant to Government Code Section 11347, the Department of Conservation (Department) has decided not to proceed with the Notice of Proposed Action as published March 27, 2009 in the Office of Administrative Law (OAL) California Regulatory Notice Register (Register 2009, No. 13-Z, OAL Notice File No. Z2009-0224-04). The proposed rulemaking concerned load limits and reporting requirements.

This notice will also be posted on the Department's website.

For questions or information regarding this notice, please contact Sharon Siozon at (916) 322-1760 or Karen Denz at (916) 322-1899 or send an e-mail to ssiozon@conservation.ca.gov or DORRegulations@conservation.ca.gov.

DISAPPROVAL DECISION

AIR RESOURCES BOARD

State of California
Office of Administrative Law

In re:

Air Resources Board

Regulatory Action: Title 13
California Code of Regulations

Adopt sections:

Amend sections: 1956.8, 1958, 1961, 1976, 1978,
2111, 2122, 2136, 2141, and
Incorporated Test Procedures

Repeal sections: 2166, 2166.1, 2167, 2168, 2169,
2170, 2171, 2172, 2172.1, 2172.2,
2172.3, 2172.4, 2172.5, 2172.6,
2172.7, 2172.8, 2172.9, 2173,
and 2174

DECISION OF DISAPPROVAL OF REGULATORY ACTION

Government Code Section 11349.3

OAL File No. 2009-0518-03 N

I. SUMMARY OF REGULATORY ACTION

The California Air Resources Board ("Board") regulations governing emission warranty information reporting and recall ("EWIR") establish standards and procedures for testing, monitoring and reporting emissions component failures based on the Board's test procedures and warranty claims records of specified in-use, on-road motor vehicles to determine if the failures exceed specified thresholds within the warranty period for the vehicles emissions components, and require vehicle manufacturers to perform corrective action as determined by the EWIR regulations.

The Board proposed to repeal all title 13 EWIR regulatory provisions amended or adopted by the Board in 2007 ("2007 EWIR Amendments") as changes without regulatory effect pursuant to section 100 ("Section 100") of title 1 of the California Code of Regulations ("CCR").¹ In connection with the complete repeal of the 2007 EWIR Amendments, the Board also proposed to adopt the title 13 EWIR regulatory provisions that were repealed from the CCR in the 2007 EWIR Amendments (generally, "1988 EWIR Regulations").

¹ All titles and sections herein are to the California Code of Regulations, or "CCR," unless specified otherwise.

"For the entire discussion of the reasons for this disapproval, please go to OAL's website at: <http://www.oal.ca.gov/decision.htm>" or contact OAL at (916) 323-6625 or staff@oal.ca.gov.

Date: July 7, 2009

/s/

Richard L. Smith

Staff Counsel

FOR: SUSAN LAPSLEY

Director

Original: James Goldstene

Copy: Amy Whiting

SUMMARY OF REGULATORY ACTIONS

REGULATIONS FILED WITH SECRETARY OF STATE

This Summary of Regulatory Actions lists regulations filed with the Secretary of State on the dates indicated. Copies of the regulations may be obtained by contacting the agency or from the Secretary of State, Archives, 1020 O Street, Sacramento, CA 95814, (916) 653-7715. Please have the agency name and the date filed (see below) when making a request.

File# 2009-0521-01

COMMISSION ON TEACHER CREDENTIALING
Limited Assignment Permits / Special Education Added Authorizations

Limited Assignment Teaching Permits (LATPs) are designed to allow credentialed teachers to teach outside of their authorized area for a limited time to fulfill a specific local need. Local employing agencies, together with consenting individuals, request a LATP when a need exists. These regulatory changes address the General Education Limited Assignment Multiple or Single Subject Teaching Permits, as well as a new Special Education Limited Assignment Teaching Permit. The amendments also provide for six Added Authorizations in Special Education for "current and previously issued special education credentials." The added authorizations cover six of the specific specialty areas addressed in subsection 300.8 of Title 34 CFR.

Title 5

California Code of Regulations

ADOPT: 80027.1, 80048.7 AMEND: 80027

Filed 07/03/2009

Effective 07/03/2009

Agency Contact:

Terri H. Fesperman

(916) 323-5777

File# 2009-0623-02

DEPARTMENT OF CORPORATIONS

Review of Conflict of Interest Code

The Department of Corporations is amending its conflict of interest code found at title 10, section 250.30, California Code of Regulations. The Fair Political Practices Commission approved the amendment for filing on June 12, 2009.

Title 10

California Code of Regulations

AMEND: 250.30

Filed 07/06/2009

Effective 08/05/2009

Agency Contact: Karen Fong (916) 322-3553

File# 2009-0528-01

DEPARTMENT OF FOOD AND AGRICULTURE

Asian Citrus Psyllid Interior Quarantine

This regulatory action expands an existing quarantined area in Imperial and San Diego counties to prevent the movement of Asian citrus psyllid (ACP) host materials and citrus greening (CG) host materials.

Title 3

California Code of Regulations

AMEND: 3435

Filed 07/07/2009

Effective 07/07/2009

Agency Contact:

Stephen S. Brown (916) 654-1017

File# 2009-0623-07

DEPARTMENT OF FOOD AND AGRICULTURE

Oriental Fruit Fly Interior Quarantine

This regulatory action removes the approximate 109 square mile quarantine for Oriental fruit fly from the Lakewood area in Orange and Los Angeles counties. The fly was considered eradicated from this area on June 21, 2009 so it is no longer necessary to regulate the movement of hosts and possible carriers.

Title 3

California Code of Regulations

AMEND: 3423(b)

Filed 07/02/2009

Effective 07/02/2009

Agency Contact:

Stephen S. Brown (916) 654-1017

File# 2009-0626-01

DEPARTMENT OF SOCIAL SERVICES

SB 39, Child Fatality Reporting and Disclosure Requirements

This rulemaking action readopts, for a 90 additional days, emergency regulations which became effective

on January 1, 2009 in the California Department of Social Services Manual of Policies and Procedures concerning information disclosure requirements by county welfare agencies following the death of a dependent child as a result of abuse or neglect.

Title MPP

California Code of Regulations

ADOPT: 31-003, 31-502 AMEND: 31-002

Filed 07/06/2009

Effective 07/06/2009

Agency Contact: Sandra Ortega (916) 657-2586

File# 2009-0623-04

FAIR POLITICAL PRACTICES COMMISSION

Gift Limit Amount

The Fair Political Practices Commission is amending section 18940.2, title 2, California Code of Regulations, entitled "Gift Limit Amount".

Title 2

California Code of Regulations

AMEND: 18940.2

Filed 07/06/2009

Effective 08/05/2009

Agency Contact:

Virginia Latteri-Lopez (916) 324-3854

File# 2009-0623-03

FAIR POLITICAL PRACTICES COMMISSION

Disclosure Statements. Advertisement Disclosure

The Fair Political Practices Commission is amending section 18450.4, title 2, California Code of Regulations, entitled "Contents of Disclosure Statements. Advertisement Disclosure."

Title 2

California Code of Regulations

AMEND: 18450.4

Filed 07/07/2009

Effective 08/06/2009

Agency Contact:

Virginia Latteri-Lopez (916) 324-3854

File# 2009-0522-03

OCCUPATIONAL SAFETY AND HEALTH**STANDARDS BOARD**

Aerosol Transmissible Diseases — Zoonotic

This regulatory action adopts requirements to control aerosol transmissible disease hazards resulting from exposure to infected animals or animal products.

Title 8

California Code of Regulations

ADOPT: 5199.1

Filed 07/06/2009

Effective 08/05/2009

Agency Contact: Christina Witte (916) 274-5721

File# 2009-0522-02

**OCCUPATIONAL SAFETY AND HEALTH
STANDARDS BOARD**

Aerosol Transmissible Diseases

This rulemaking establishes a safety order for the protection of employees from aerosol transmissible diseases and pathogens. It specifies the requirements for and contents of aerosol transmissible disease exposure control plans. Among other things, it specifies engineering and work practice controls and personal protective equipment requirements as well as workplace training and record keeping responsibilities of employers.

Title 8

California Code of Regulations

ADOPT: 5199

Filed 07/06/2009

Effective 08/05/2009

Agency Contact: Christina Witte (916) 274-5721

**CCR CHANGES FILED
WITH THE SECRETARY OF STATE
WITHIN February 4, 2009 TO
July 8, 2009**

All regulatory actions filed by OAL during this period are listed below by California Code of Regulations titles, then by date filed with the Secretary of State, with the Manual of Policies and Procedures changes adopted by the Department of Social Services listed last. For further information on a particular file, contact the person listed in the Summary of Regulatory Actions section of the Notice Register published on the first Friday more than nine days after the date filed.

Title 2

07/07/09 AMEND: 18450.4
07/06/09 AMEND: 18940.2
06/15/09 ADOPT: 18746.4 AMEND: 18741.1, 18746.1, 18746.3
06/12/09 ADOPT: 649.14, 649.17, 649.18, 649.23, 649.25, 649.29, 649.32, 649.33, 649.48 AMEND: 647.4, 649, 649.2, 649.4, 649.7, 649.8, 649.11, 649.12, 649.13, 649.15, 649.16, 649.22, 649.24, 649.26, 649.27, 649.28, 649.30, 649.31, 649.35, 649.36, 649.50, 649.51, 649.57, 649.58, 649.59, 649.62 REPEAL: 649.3, 649.6, 649.9, 649.10, 649.14, 649.23, 649.25
06/09/09 ADOPT: 18405
06/01/09 ADOPT: 250.1
05/21/09 AMEND: 18705.1
05/14/09 ADOPT: 21000, 21001, 21002, 21003, 21004, 21005, 21006, 21007, 21008, 21009
05/08/09 ADOPT: 18410 AMEND: 18402

04/30/09 AMEND: 1859.129, 1859.197
04/28/09 AMEND: div. 8, ch. 111, section 59560
04/22/09 ADOPT: 1859.148.2, 1859.166.2 AMEND: 1859.2, 1859.121, 1859.164.2, 1859.197

03/05/09 AMEND: 18704

02/17/09 AMEND: 51.3

Title 3

07/07/09 AMEND: 3435
07/02/09 AMEND: 3423(b)
06/30/09 AMEND: 3434(b)
06/22/09 AMEND: 3434(b)
06/19/09 AMEND: 3591.20(a)
06/15/09 AMEND: 3406(b)
06/15/09 AMEND: 3434(b)
06/01/09 AMEND: 3406(b)
06/01/09 ADOPT: 3408
05/26/09 AMEND: 3434(b)
05/20/09 AMEND: 3434(b)
05/20/09 AMEND: 3434(b)
05/13/09 AMEND: 6800
05/04/09 AMEND: 3434(b)
04/27/09 AMEND: 3434(b)
04/20/09 AMEND: 6452.2
03/30/09 AMEND: 3434(b)
03/25/09 AMEND: 6860
03/23/09 AMEND: 3423(b)
03/19/09 ADOPT: 1210, 1211, 1212, 1213, 1214, 1215, 1216, 1217, 1218, 1219, 1220, 1221, 1222.1, 1222.4, 1209, 1209.1, 1245.1, 1245.2, 1245.3, 1245.4, 1260.2, 1269, 1269.1, 1269.2, 1271 AMEND: 1200, 1201, 1202, 1204, 1205, 1206, 1207, 1208, 1222, 1223, 1223.1, 1235, 1236, 1238, 1239, 1240, 1241, 1242, 1243, 1244, 1245, 1245.1, 1245.2, 1245.3, 1245.4, 1245.5, 1245.6, 1245.7, 1245.8, 1245.9, 1245.10, 1245.11, 1245.12, 1245.13, 1245.14, 1245.15, 1245.16, 1246, 1247, 1248, 1249, 1250, 1251, 1252, 1253, 1254, 1255, 1256, 1257, 1258, 1259, 1260, 1260.1, 1261, 1262, 1263, 1264, 1265, 1266, 1267, 1268, 1269, 1270 REPEAL: 1203, 1210, 1211, 1212, 1213, 1214, 1215, 1216, 1217, 1218, 1219, 1220, 1221, 1224, 1225, 1226, 1227, 1228, 1229, 1230, 1231, 1237
03/18/09 AMEND: 3435(b)
03/10/09 AMEND: 3434
03/05/09 AMEND: 3591.20(a)
03/04/09 AMEND: 3435
02/27/09 AMEND: 3434(b)
02/26/09 AMEND: 850

CALIFORNIA REGULATORY NOTICE REGISTER 2009, VOLUME NO. 29-Z

02/19/09 AMEND: 3434(b)
 02/13/09 AMEND: 3406(b)
 02/10/09 AMEND: 3060.4(a)(1)(C)(1), 3652(k)
 02/05/09 AMEND: 3434(b)

Title 4

06/25/09 ADOPT: 12486
 06/22/09 ADOPT: 8078.1 AMEND: 8070, 8072, 8076, 8078
 06/04/09 AMEND: 106
 05/18/09 ADOPT: 12488, 12508, 12510, 12511, 12514 AMEND: 12480, 12486
 05/18/09 ADOPT: 12482
 05/12/09 AMEND: 406
 05/12/09 ADOPT: 12591
 04/24/09 ADOPT: 12480, 12492, 12494, 12496, 12498, 12499, 12501, 12502, 12504 AMEND: 12482
 04/24/09 AMEND: 12482
 03/23/09 AMEND: 10175, 10176, 10177, 10182, 10185, 10187, 10188, 10189, 10190
 03/11/09 AMEND: 1865
 03/10/09 ADOPT: 12388, 12410
 03/05/09 ADOPT: 2066
 03/05/09 ADOPT: 1504.5 AMEND: 1481, 1486
 03/04/09 AMEND: 2073
 02/23/09 ADOPT: 8102, 8102.1, 8102.2, 8102.3, 8102.5, 8102.6, 8102.7, 8102.8, 8102.9, 8102.11, 8102.12, 8102.13, 8102.14, 8102.15 AMEND: 8090, 8091, 8092, 8093, 8094, 8095, 8096, 8097, 8098, 8099, 8100, 8101 REPEAL: 8102.10
 02/13/09 ADOPT: 12362
 02/11/09 ADOPT: 8078.1 AMEND: 8070, 8072, 8076, 8078

Title 5

07/03/09 ADOPT: 80027.1, 80048.7 AMEND: 80027
 06/29/09 ADOPT: 19821.5, 19825.1, 19828.4, 19837.3, 19839, 19845.2 AMEND: 19815, 19816, 19816.1, 19828.3, 19837.2, 19845.1, 19846
 05/28/09 AMEND: 9521
 05/11/09 AMEND: 80023, 80024.4, 80024.5, 80024.6, 80025.5, 80026, 80026.1, 80026.6, 80034.5 REPEAL: 80024.3, 80026.4, 80042, 80042.5, 80569
 05/11/09 AMEND: 24002, 24003, 24005
 05/07/09 ADOPT: 3090, 3090.1, 3091, 3092, 3093, 3094, 3095, 3096, 3096.1, 3096.2, 3097, 3098, 3098.1, 3098.2, 3099
 04/30/09 ADOPT: 26000

03/27/09 AMEND: 3001, 3051, 3060, 3061, 3062, 3063, 3064, 3065, 3066, 3067, 3068, 3069, 3070

03/05/09 AMEND: 80225
 02/17/09 AMEND: 80413, 80487
 02/04/09 ADOPT: 9800, 9810, 9820, 9830

Title 8

07/06/09 ADOPT: 5199
 07/06/09 ADOPT: 5199.1
 06/22/09 AMEND: 230.1
 06/18/09 ADOPT: 9792.23.1, 9792.23.2, 9792.23.3, 9792.23.4, 9792.23.5, 9792.23.6, 9792.23.7, 9792.23.8, 9792.23.9, 9792.24, 9792.24.1, 9792.24.2, 9792.24.3, 9792.25, 9792.26 AMEND: 9792.20, 9792.21, 9792.22, 9792.23
 05/01/09 AMEND: 3030, 3037, 3089, 3097, 3098, 3101, 3107
 05/01/09 AMEND: 4530
 04/20/09 AMEND: 10100.2, 10101.1, 10103.2, 10104, 10105, 10106.1, 10106.5, 10107.1, 10108, 10109, 10111.1, 10111.2, 10112, 10113.4, 10113.5, 10114.2, 10115, 10115.1, 10115.2
 04/06/09 ADOPT: 227, 314, 389 AMEND: 281, 303, 323, 368, 523
 04/01/09 ADOPT: 2710.1, 2716.1, 2718, 2718.1, 2738, 2739.0, 2739.4, 2742.0, 2742.1, 2742.2, 2742.3, 2745.0, 2745.1, 2749.2, 2754.1, 2754.2, 2796, 2799.1, 2799.2, 2799.3, 2799.4, 2799.5, 2799.6, 2812.2, 2812.3, 2832, 2833.1, 2833.2, 2882.2, 2985.0, 2985.1, 2985.2, 2987.0, 2987.1, 2989.0, 2989.1 AMEND: 2700, 2706, 2707, 2710, 2712, 2714, 2715, 2725, 2735, 2739.1, 2743, 2745.2, 2749.1, 2753, 2790, 2791, 2792, 2795, 2797, 2799.0, 2805, 2810, 2812.1, 2816, 2819, 2820, 2833, 2845, 2847, 2863, 2873, 2874, 2875, 2880, 2882.1, 2890, 2893, 2908, 2910, 2931, 2932, 2933, 2934, 2935, 2946, 2974 REPEAL: 2742
 03/04/09 AMEND: 3248
 03/02/09 ADOPT: 15475.1, 15475.2, 15475.3, 15482, 15482.1, 15482.2, 15483, 15484, 15485, 15486, 15486.1, 15487, 15488, 15489, 15489.1, 15490, 15490.1, 15491, 15496, 15497, 15497.1, 15498, 15499, 15499.5 AMEND: 15201, 15203, 15203.1, 15203.2, 15203.3, 15203.4,

	15203.5, 15203.6, 15203.7, 15203.8, 15203.9, 15203.10, 15204, 15205, 15210, 15210.1, 15210.2, 15210.3, 15211, 15211.1, 15211.2, 15215, 15230, 15251, 15353, 15360, 15405, 15470, 15471, 15472, 15473, 15474, 15475, 15476, 15477, 15478, 15479, 15480, 15481, 15601.7		
03/02/09	AMEND: 3209, 3299, 4885, 5049, 5085, 5152, 5193, 5207, 5215, 5297, 5299, 5302, 5304, 5449, 6402, 6503, 6600		05/12/09 AMEND: 2716.1, 2790.1.5, 2810.5
02/25/09	REPEAL: 10116.4, 10122, 10122.1, 10123, 10123.2, 10123.3, 10124, 10124.1, 10125, 10125.1, 10125.2, 10125.3, 10126, 10127, 10127.1, 10127.2, 10127.3, 10128, 10129, 10129.1, 10130, 10131, 10131.1, 10131.2, 10132, 10132.1, 10133, 10133.2, 10133.4, 10133.10, 10133.11, 10133.12, 10133.13, 10133.14, 10133.15, 10133.16, 10133.17, 10133.18, 10133.19, 10133.20, 10133.21, 10133.22		05/01/09 AMEND: 2699.6603
02/18/09	AMEND: 3664, 3732, 3737, 3944, 4186, 4307.1, 4345, 4353, 4354		03/27/09 AMEND: 2498.6 (Exhibit C)
02/13/09	AMEND: 3336, 3650, 3653		03/25/09 AMEND: 2661.3, 2661.4, 2662.1
02/09/09	AMEND: 3231, 3277, Appendix B Following Section 3299, Appendix A following Section 3326, 3340, 3341, 3575, Appendices A, B, C, D, E, F, G following Section 3583		03/23/09 AMEND: 2498.6
Title 9			02/26/09 AMEND: 2699.6805
06/29/09	ADOPT: 10700, 10701 AMEND: 10518, 10529 REPEAL: 10532, 10533		02/23/09 AMEND: 2318.6, 2353.1
06/26/09	ADOPT: 7212.1, 7212.2, 7212.3, 7212.4 AMEND: 7210, 7211, 7212		02/23/09 AMEND: 2498.6
02/06/09	ADOPT: 4000, 4005		02/19/09 AMEND: 5000, 5110, 5111, 5112, 5113, 5114, 5116, 5117 REPEAL: 5119
Title 10			02/05/09 ADOPT: 2308.1, 2308.2, 2308.3
07/06/09	AMEND: 250.30		Title 11
06/24/09	AMEND: 2498.4.9		05/21/09 AMEND: 1005, 1007, 1008
06/24/09	AMEND: 2498.4.9		04/17/09 AMEND: 30.1
06/24/09	AMEND: 2498.4.9		04/01/09 ADOPT: 9056, 9057, 9058, 9059, 9060 AMEND: 1018
06/24/09	AMEND: 2498.4.9		04/01/09 ADOPT: 9050, 9051, 9052, 9053, 9054, 9055 REPEAL: 1002
06/01/09	ADOPT: Article 1, 2031.1, 2031.2, 2031.3, 2031.4, 2031.5, 2031.6, Article 2, 2031.7, 2031.8, Article 3, 2031.9, Article 4, 2031.10		03/30/09 ADOPT: 30.15
06/01/09	ADOPT: 4.1, 4.2, 4.3, 4.4, 4.5, 4.6, 4.7, 4.8, 4.9, 4.10		03/03/09 AMEND: 9070, 9077
06/01/09	ADOPT: 2850.1, 2850.2, 2850.3, 2850.4, 2850.5, 2850.6, 2850.7, 2850.8, 2850.9, 2850.10		02/18/09 REPEAL: 313, 314, 315, 316, 317, 318, 319, 320, 321, 322, 323, 324, 325, 326, 327
05/29/09	ADOPT: 5500, 5501, 5502, 5503, 5504, 5505, 5506, 5507		Title 12
			02/26/09 ADOPT: 800, 800.1, 801, 802, 803, 804, 805, 806, 807, 808, 809
			Title 13
			06/29/09 AMEND: 2702, 2704
			06/16/09 AMEND: 1239
			06/04/09 ADOPT: 2340, 2341, 2342, 2343, 2344, 2345
			05/22/09 ADOPT: 225.38 AMEND: 225.00, 225.03, 225.06, 225.09, 225.21, 225.35, 225.45, 225.48, 225.54, 225.72
			03/18/09 ADOPT: 1962.1 AMEND: 1900, 1962, 1962.1 renumber as 1962.2
			03/10/09 ADOPT: 1160.6 AMEND: 1160.3, 1160.4
			02/26/09 ADOPT: 29.00
			02/05/09 ADOPT: 20.05 AMEND: 20.04
			02/05/09 AMEND: 25.08
			Title 13, 17
			05/29/09 ADOPT: Title 13: 2299.2, Title 17: 93118.2 AMEND: Title 13: 2299.1, Title 17: 93118
			Title 14
			06/23/09 AMEND: 3959(b)(4)
			06/23/09 ADOPT: 4351.1 AMEND: 4351
			06/16/09 AMEND: 753.5
			06/15/09 AMEND: 27.80
			06/12/09 AMEND: 265, 353, 360, 361, 362, 363, 364, 555, 708
			06/02/09 AMEND: 7.50(b)(91.1)
			05/26/09 AMEND: 7.00, 7.50

05/21/09 AMEND: 7.50(b)(178)
 05/15/09 AMEND: 790, 818.02, 827.02
 05/14/09 ADOPT: 874.2.5 AMEND: 790, 873.1, 873.2, 873.4, 873.5, 873.7, 874.2, 877.2, 877.3 REPEAL: 873.3
 05/13/09 AMEND: 25201
 05/07/09 AMEND: 25201
 05/04/09 AMEND: 670.5
 04/27/09 ADOPT: 749.5
 04/08/09 AMEND: 2245, 2320
 03/18/09 AMEND: 632
 03/16/09 ADOPT: 20004.1, 20009.1, 20009.2 AMEND: 20000, 20001, 20002, 20003, 20004, 20005, 20008, 20009
 03/04/09 AMEND: 2000, 2090, 2516, 2530, 2620, 2630, 2660, 2670, 2720, 2730
 03/03/09 ADOPT: 27.32 AMEND: 27.20, 27.25, 27.30, 27.35, 27.40, 27.45, 27.50, 27.51, 28.26, 28.27, 28.28, 28.29, 28.48, 28.49, 28.51, 28.52, 28.53, 28.54, 28.55, 28.56, 28.57, 28.58
 03/02/09 AMEND: 791.7(a), Form FG OSPR-1924, Form FG OSPR-1925, Form FG OSPR-1972
 02/25/09 AMEND: 1038, 1052
 02/23/09 ADOPT: 749.4

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06/17/09 ADOPT: 3640, 3730 AMEND: 3500, 3501, 3502, 3600, 3610, 3620, 3625, 3630, 3740
 06/17/09 ADOPT: 3099
 05/12/09 AMEND: 3000, 3190, 3375, 3376.1, 3379
 05/04/09 AMEND: 3335(d)(3)
 04/20/09 AMEND: 1004, 1006, 1007, 1008, 1012, 1013, 1018, 1027, 1028, 1029, 1032, 1040, 1044, 1045, 1046, 1055, 1056, 1059, 1063, 1066, 1082, 1101, 1105, 1144, 1151, 1161, 1209, 1217, 1230, 1241, 1243, 1245, 1247, 1262, 1272
 04/02/09 ADOPT: 3334 AMEND: 3000
 02/05/09 ADOPT: 3077, 3077.1, 3077.2, 3077.3, 3077.4 AMEND: 3000, 3043.6, 3375

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06/26/09 ADOPT: 2611 AMEND: 2606, 2614, 2615, 2616, 2621, 2649 REPEAL: 2612, 2613, 2623
 06/26/09 AMEND: 426.51
 06/16/09 AMEND: 1524
 06/12/09 AMEND: 2021, 2068.5, 2068.6 REPEAL: 2067, 2068
 06/03/09 AMEND: 1888
 06/02/09 AMEND: 1419, 1419.1, 1419.3
 05/20/09 ADOPT: 1815 AMEND: 1886.40

04/28/09 AMEND: 1524
 04/27/09 AMEND: 1760
 04/03/09 AMEND: 3830
 03/24/09 ADOPT: 1398.12
 03/20/09 AMEND: 1937, 1950, 1950.5, 1953
 03/11/09 AMEND: 1715, 1784, Form 17M-13, Form 17M-14, Form 17M-26
 03/04/09 AMEND: 4181
 03/04/09 AMEND: 1351.5, 1352
 03/04/09 ADOPT: 389
 03/04/09 AMEND: 998
 03/04/09 AMEND: 950.2
 03/03/09 AMEND: 305 REPEAL: 306.1
 02/11/09 AMEND: 950.3

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06/18/09 AMEND: 94508, 94509, 94510, 94512, 94513, 94515
 04/24/09 AMEND: 30100, 30346.1, 30373
 03/11/09 AMEND: 93119

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06/04/09 AMEND: 1532, 1533.1, 1533.2, 1534, 1535
 05/21/09 AMEND: 25114
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 04/06/09 ADOPT: 25113 AMEND: 25111
 03/19/09 AMEND: 23701, 23772
 03/11/09 AMEND: 1506, 1524
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 02/05/09 AMEND: 1620

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06/23/09 AMEND: 3.1, 3.2, 4.3, 8.6, 10.3, 11.3, 13.2
 06/04/09 AMEND: 1.4, 1.6, 1.7, 1.8, 1.9, 1.10, 1.11, 1.12, 1.13, 1.14, 1.15, 1.16, 2.3, 2.6, 3.2, 3.6, 8.1, 8.2, 8.3, 11.6, 13.9, 14.2, 14.3, 14.6, 15.2, 17.3, 17.4, 18.1
 04/22/09 ADOPT: 3100, 3101, 3101.5, 3102, 3103, 3104, 3105, 3106, 3107, 3108

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06/22/09 ADOPT: 7700, 7701, 7702, 7703, 7704, 7705, 7706, 7707, 7708, 7709, 7710, 7711
 05/14/09 AMEND: 1554, 1556

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06/17/09 AMEND: 926-3, 926-4, 926-5
 05/21/09 AMEND: 2601-1
 04/21/09 AMEND: 51543
 03/12/09 AMEND: 51517
 03/03/09 ADOPT: 63000.48, 63051, 63052 AMEND: 63000.16, 63000.25, 63000.43, 63000.46, 63000.66, 63000.68, 63000.77, 63010, 63011,

02/04/09	63013, 63020, 63021, 63029, 63030, 63040, 63050, 63055 REPEAL: 63051	Repeal old article 7 and adopt new article 7.
	ADOPT: 66260.201, 66260.202, 66273.7, 66273.33.5, 66273.41, 66273.70, 66273.71, 66273.72, 66273.73, 66273.74, 66273.75, 66273.76, and 66273.77 AMEND: 66260.10, 66260.23, 66261.4, 66261.9, 66261.50, appendix X of chapter 11, 66264.1, 66265.1, 66273.1, 66273.2, 66273.3, 66273.4, 66273.5, 66273.6, 66273.8, 66273.9, 66273.30, 66273.31, 66273.32, 66273.33, 66273.34, 66273.35, 66273.36, 66273.37, 66273.38, 66273.39, 66273.40, 66273.51, 66273.52, 66273.53, 66273.54, 66273.55, 66273.56, 66273.60, 66273.61, 66273.62, and 67100.2 REPEAL: 6 66273.7.1, 66273.7.2, 66273.7.3, 66273.7.4, 66273.7.5, 66273.7.6, 66273.7.7, 66273.7.8, 66273.7.9, 66273.7.10, 66273.10, 66273.11, 66273.12, 66273.13, 66273.14, 66273.15, 66273.16, 66273.17, 66273.18, 66273.19, 66273.20, 66273.21, 66273.41, 66273.70, 66273.80, 66273.81, 66273.82, 66273.83, 66273.84, 66273.85, 66273.86, 66273.87, 66273.88, 66273.89, and 66273.90 Articles Affected: Amend article 3; Adopt new article 4; Renumber old article 4 to article 5; Renumber old article 5 to article 6; Repeal old article 6;	
Title 23		
06/25/09	ADOPT: 3989.8	
06/16/09	ADOPT: 3939.36	
06/01/09	ADOPT: 2631.2	
05/14/09	ADOPT: 2920	
02/19/09	ADOPT: 3939.35	
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05/22/09	ADOPT: 4200, 4202, 4204, 4206, 4208, 4210, 4212, 4214, 4216	
05/20/09	AMEND: 8217	
05/13/09	ADOPT: 6932 REPEAL: 6932	
05/07/09	ADOPT: 6932 REPEAL: 6932	
02/11/09	ADOPT: 4200, 4202, 4204, 4206, 4208, 4210, 4212, 4214, 4216	
Title 27		
04/07/09	AMEND: 25705(b)	
02/18/09	AMEND: 20921	
Title MPP		
07/06/09	ADOPT: 31-003, 31-502 AMEND: 31-002	
06/29/09	AMEND: 11-425, 22-001, 22-003, 22-009, 45-302, 45-303, 45-304, 45-305, 45-306	
02/09/09	AMEND: 42-721, 42-780, 44-303, 44-307, 44-318, 82-182	
02/05/09	ADOPT: 40-037, 70-101, 70-102, 70-103, 70-104, 70-105 AMEND: 30-755, 30-770, 40-105, 42-430, 42-431, 42-433, 42-711, 49-020, 49-030, 49-060, 63-403, 69-201, 69-202, 69-205	